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THE WORKS

OF

HUBERT HOWE BANCROFT.

THE WORKS

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OF

HUBERT HOWE BANCROFT.

VOLUME XXXVI.

POPULAR TRIBUNALS.

VOL. I.

SAN FRANCISCO:
THE HISTORY COMPANY, PUBLISHERS.
1887.

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PREFACE.

During my researches in Pacific States history, and particularly while tracing the development of Anglo-American communities on the western side of the United States, I fancied I saw unfolding into healthier proportions, under the influence of a purer atmosphere, that sometime dissolute principle of political ethics, the right of the governed at all times to instant and arbitrary control of the government. The right thus claimed was not to be exercised except in cases of emergency, in cases where such interference should be deemed necessary, but it was always existent; and as the people themselves were to determine what should constitute emergency and what necessity, these qualifications were impertinent.

Though liable at times to the grossest abuse, I found this sentiment latent among widely spread and intelligent peoples, but in a form so anomalous that few would then admit to themselves its presence among their convictions. It was a doctrine acted rather than spoken, and existing as yet in practice only, never having through formulas of respectability worked itself out in theory. Yet it was palpably present, more often as a regretted necessity, usually denounced in judicial and political circles, though clearly operating under certain conditions to the welfare of society.

Finding on these Pacific shores, in a degree superior to any elsewhere appearing in the annals of the race, this phase of arbitrary power as displayed by the many Popular Tribunals here engendered, I pressed inquiry in that direction, and these volumes are the result. It is all history; and though herein I sometimes indulge in details which might swell unduly exact historical narration, I have felt constrained to omit more facts and illustrations than I have given. These omissions, however, are not made at random, or to the injury of the work, but only after carefully arranging and comparing all the information on the subject I have been able to gather.

And the material was abundant. Beside printed books, manuscripts, and the several journals of the period advocating the opposite sides of the question, I was fortunate enough to secure all the archives of the San Francisco Committee of Vigilance of 1851, and to obtain free access to the voluminous records and documents of the great Committee of 1856. But this was not all. Well knowing that the hidden workings of the several demonstrations could be obtained only from the mouths of their executive officers, I took copious dictations from those who had played the most prominent parts in the tragedies. From one member I learned what occurred on a given occasion at the point where he happened to be; from another, what was taking place at the same time at another point of observation; and so on, gathering from each something the others did not know or remember. By putting all together I was enabled to complete the picture of what were otherwise a conglomeration of figures and events.

At first I found the gentlemen of 1856 exceedingly

backward in divulging secrets so long held sacred; and it was only after I had given them the most convincing assurances of the strength and purity of my purpose that I obtained their united consent to place me in possession of their whole knowledge of the matter. Often had they been applied to for such information, and as often had they declined giving it. And for good reasons. They had offended the law; they had done violence to many who still cherished hatred; they had suffered from annoying and expensive suits at law brought against them by the expatriated; they had disbanded but had not disorganized, and they did not know at what moment they might again be summoned to rise in defence of society, or to band for mutual protection. From the beginning it was held by each a paramount obligation to divulge nothing.

On the other hand the questions arose: Are these secrets to die with you? May not the knowledge of your experience be of value to succeeding societies? Have you the right to bury in oblivion that experience, to withhold from your fellow-citizens and from posterity a knowledge of the ways by which you achieved so grand a success? And so after many meetings, and warm deliberations, it was agreed that the information should be placed at my disposal for the purpose of publication.

However I may have executed my task, the time selected for its performance was most opportune. Ten years earlier the actors in these abnormal events would on no account have divulged their secrets; ten years later many of them will have passed away, and the opportunity be forever lost for obtaining information which they alone could give.

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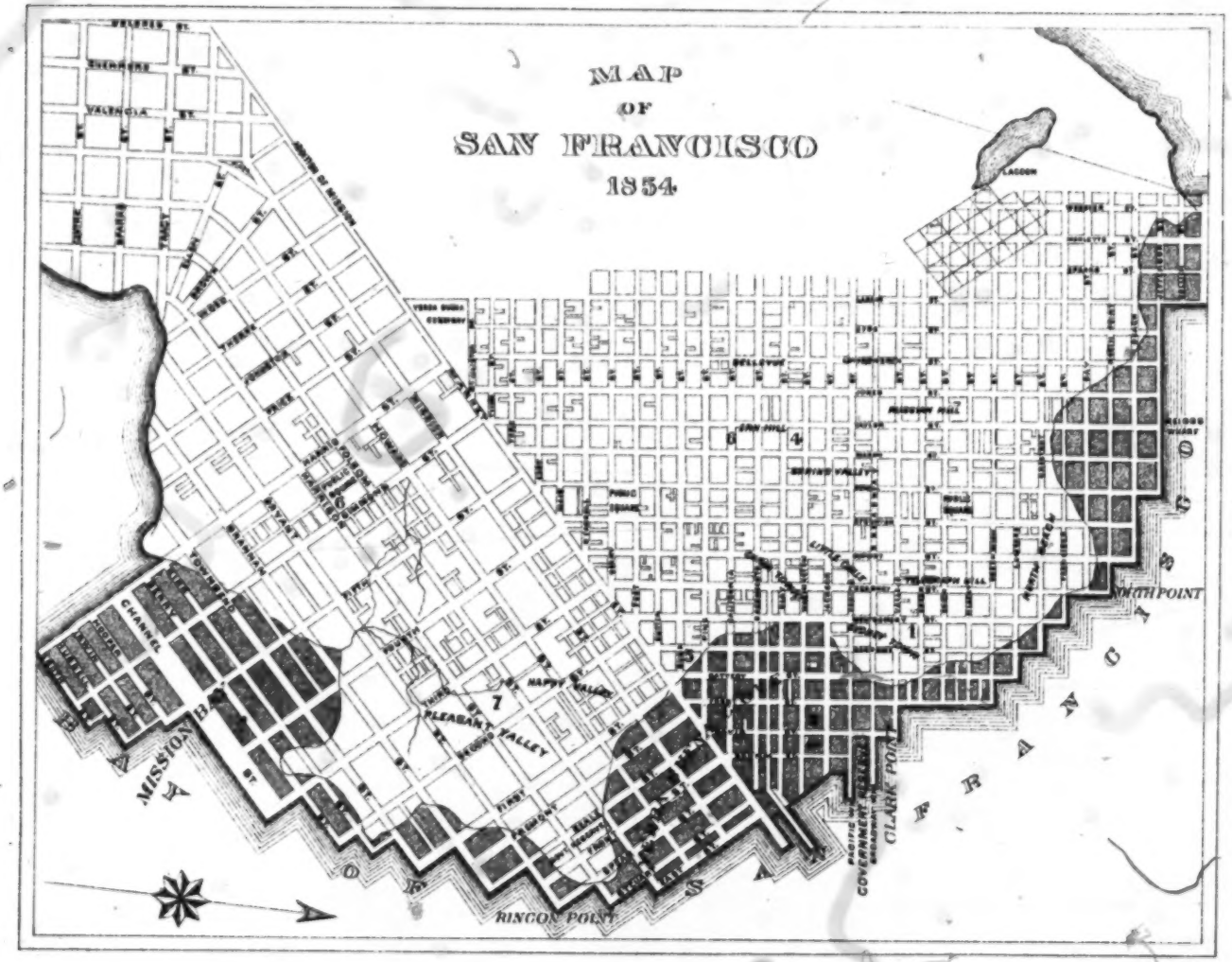

MAP
OF
SAN FRANCISCO
1854
MISSION BAY
SOUTH POINT
RINCON POINT
CLARK POINT
PLEASANT VALLEY
HAPPY VALLEY
LAGOON
CHANNEL

POPULAR TRIBUNALS.

CHAPTER I.

ABERRATIONS OF JUSTICE, ANCIENT AND MODERN.

> At Halifax the law so sharpe doth deale,
> That whoso more than thirteen pence doth steale,
> They have a jyn that wondrous quick and well
> Sends thieves all headless into heaven or hell.
>
> *Taylor, The Water Poet.*

POPULAR TRIBUNALS, wherein is attempted the illegal administration of justice by the people, have become quite prominent among those social paroxysms incident to rapid progress. The principle in its several phases, and as at present existing, is essentially a latter-day development. Dangerous or otherwise, it is the outgrowth of enlightenment, of intellectual emancipation. While the doctrine of the divinity of law, that is of statutory or other than natural law, held bound men's minds, there were comparatively few examples of illegal justice; but when it came generally to be felt that statutes were no more sacred than the men who made them, legal impositions and vicious technicalities were less patiently endured.

Not that antiquity was wholly without its right-compelling powers, but they were of a different order from our modern demonstrations. But neither the old nor the new were such as Plato would have chosen for his Republic, or Saint Augustine for his City of God, or

Sir Thomas More for his Utopia, or Lord Bacon for his New Atlantis. A theorist could scarcely have concocted so paradoxical a proposition as the modern popular tribunal, and the thing was left to concoct itself.

There was government by factions in the olden time, such as in the days of Cicero and Pompey kept Rome for nearly four years in a state of anarchy. It was Clodius and his hired gladiators who did it. Even as at present, sometimes, assassins were at work; elections were tampered with, and the senate was overawed. Men talked of military rule, the thought of which was pleasing to both Pompey and Cæsar; for strange to say, when backed by strong battalions, the rival allies both loved to reign. How it would have ended it is difficult to say, had not Milo and his partisans, likewise with a patrol of gladiators, opposed and finally overthrown Clodius. But for a time, like the Capulets and Montagues at Verona, the parties of Clodius and Milo walked the streets of Rome, bidding defiance alike to governors and governed.

In feudal times almost every state had its system of secret tribunals, where judgments, most unexpectedly to the victims, were passed in darkness and executed in the light. Whereat innocent and guilty alike trembled; no one could tell when his own turn would come, or when he might be executed for he knew not what. The guilty mind was thus always on the rack, and fortunate was the offender who was not first condemned and then caught.

During the Middle Age the knights of Germany formed an independent feudal order, and threw off allegiance to any prince. Their depredations at first were not incompatible with the then existing ideas of respectability, but as they were driven into corners by the growth of towns, the order degenerated toward the close of the fifteenth century, until its members were nothing less than highwaymen. In 1522 they infested the country round Nuremberg, and took many

prisoners. They had a fashion of cutting off the right hand of those they captured, thereby rendering them helpless in any future encounter.

There were several terms used in bygone times to denote the process of punishing first and trying afterward. There was Cowper law, due to a baron-baile in Coupar-Angus, before the abolition of heritable jurisdiction. We find also the expressions Jedburgh, Jedwood, and Jeddart justice; also Lynford law, from a fortified town of that name in Devon, where criminals were confined, before trial, in a dungeon so loathsome that no punishment could be greater.

Venice had its Council of Ten, a secret tribunal of the republic, instituted subsequent to the conspiracy of Tiepolo. It was originally composed of ten councillors, arrayed in black. Soon six others in red were added, and these together with the doge exercised unlimited power. Temporarily established at first, it was continued for a time from year to year, and finally in 1335 declared permanent. As late as 1454 we find this tribunal exercising its secret pleasure, in the name of justice, under the following arrangement: Citizens, chosen by the Council as inquisitors to execute its will, must not refuse to serve. The inquisitors might proceed against any person, no matter of what rank; they might pronounce the death sentence, or any other; they had charge of the prisons, and drew money from the treasury of the Council of Ten without question as to its use. The proceedings of the tribunal must be always secret; its members must wear no distinctive badge; no open arrests should be made, no public executions, but the condemned of the tribunal should be drowned at night in the Orfano Canal. The relatives of the escaped offenders should be punished; any offensive official might be secretly assassinated. This happy state of things continued until the fall of the republic, in 1797.

In France there were the Council of the Ancients, and the Council of Five Hundred, and in Spain the

Council of Castile; but these, and many others similar, were bodies advisory of the government, and acted in that capacity, or subject to the regulations of the government, and not in antagonism to it.

Aragon and Castile boasted their Holy Brotherhood, and for centuries their sovereigns smiled on its important services. In Spain, during the thirteenth and fourteenth centuries, along the line dividing the hostile Goth and Arab, the frontiers of both Spanish and Moslem domination, law was impotent and anarchy mightier than kings. The towns were obliged to league for mutual protection. Associating under the name of *Santa Hermandad*, or Holy Brotherhood, they levied contributions for their support, and organized troops for service. They protected travellers, pursued criminals, and appointed judges who paid little heed to what the lord of the domain might think of it, or to his laws or jurisdiction. They scoured the mountains for robbers, and caught, tried, and executed them after their own fashion for many scores of years. But here, also, the king gave both favor and support to the association.

The Vehmgericht of Westphalia has been held up as an institution of which the present popular tribunal is a representation; but there is little in common between them, either in letter or in spirit. The Vehmgericht was a secret tribunal, established for the preservation of the true faith, the promotion of peace, and the suppression of crime. All its doings were enveloped in mystery. Its secret spies penetrated to the remotest corners of Germany, its judges were unknown, its judgments were swift, and their execution was certain.

Scotland once gloried in a sort of lynch-law, called burlaw, from the Dutch *baur*, a boor, or rustic. In the rural districts the people made certain laws to suit emergencies, and appointed one of their number, called the burlaw-man, to see them executed. Two and a half centuries ago there was what was called Halifax

law, which committed thieves for execution to the Halifax gibbet, which was a kind of guillotine. Robespierre proposed a decree which, in 1793, established a Committee of General Security, exercising power superior to the convention. To this was auxiliary the Committee of Public Safety, of which Robespierre likewise was a member.

An incident is mentioned by M. Huc, which happened during his journey through the Chinese Empire in company with certain Catholic priests, which shows how easily intimidated are the subordinates of arbitrary power by a counter display of like pretended power. A Chinese Christian, Tchao by name, zealous in his regard for the spiritual fathers thus unexpectedly visiting the country, sent the travellers a present of some dried fruit, accompanied by a letter. A military mandarin, overwhelmed with curiosity, secretly opened the package and attempted to read the letter, but was caught in the act. The missionaries, who were travelling under protection of the emperor, clamored loudly over the insult. They demanded that Tchao, whom the prefect had ordered imprisoned as a disturber of the peace for having thus communicated with the travellers, should be brought before them for trial; and two foreigners, if we may credit their story, did actually so frighten the magistrates that they yielded their place in the tribunal, and permitted the missionaries to try and to acquit the prisoner.

England in Anglo-Saxon times found a necessity the witena-gemót, or great national council, by which the king's title must be recognized and his acts regulated, and to which all courts of justice were subservient. When abolished by William the Conqueror, its powers were transmitted to parliament only in part.

Such are some of the prominent examples of history which at various times, and by men not the most thoroughly familiar with the subject, have been compared with the modern Committee of Vigilance, which

in its higher aspect is the highest form of the popular tribunal. If antiquity can furnish us no more pertinent illustrations than these, then we are safe in saying that nothing exactly similar to our present popular tribunal was known to the ancients. If nothing of the kind can be found in Europe, then to America must be given the honor or odium of it. In all the cases cited there is something of government by faction, or of military rule, or of rebellion against the powers that be, or of secret or open tribunals acting under law, or of legally sanctioned aids to government, or of revolution, civil war, or highway robbery. Now whatever our popular tribunal may be, it is none of these; it has no such ingredients in its composition.

As we approach the time of Lynch and lynching, we come nearer our present development, but we do not quite reach it even then. As to the origin of the term lynch-law, opinion is divided. There was in 1493 a mayor of Galway, Ireland, named James Fitzstephens Lynch. He was in the wine trade, and received cargoes from Spain. Thither he once sent his son with money to buy wine. The son squandered the money, but purchased a cargo on credit. A nephew of the Spanish seller of the wine accompanied young Lynch on his return voyage, for the purpose of receiving pay for the wine on reaching Ireland. To hide his defalcation, before reaching home Lynch threw the Spaniard overboard. In time information of the son's crime reached the father's ear. The young man was tried and condemned, the father being judge. The family interfered to prevent the execution; but the father, lest the ends of justice should be defeated, with his own hands hanged him from a window overlooking the street. Hence, as some say, the term lynch-law. Others refer the honor to the founder of Lynchburg, Virginia; yet others to a Virginia farmer, named Lynch, who once whipped a thief instead of delivering him to the sheriff. In 1687 one Judge Lynch, to suppress piracy which was

ruining commerce in American waters, is said to have executed justice summarily, regardless of forms of law. Another account makes John Lynch, a native of South Carolina, the judge. This man followed Daniel Boone to Kentucky, where he was chosen chief of twelve jurors to try causes informally. Which, if any, of these accounts is correct is a matter of small moment. What we are to understand at present by the term is what chiefly concerns us. When the Piedmont country of Virginia was the backwoods of America, without law, summary executions were common; and the accident which applied the term Lynch to illegal executions will never positively be known. Whatever else it was, in its original use it was not a term of reproach, but a mark of the high character and moral integrity of the people.

It was on the western frontier of the United States, and during the last half century, that the popular tribunal in its broadest proportions was reached. All that time and before it, beginning just back of the English plantations, this frontier had been shifting, extending farther and farther to the westward, until the valley of the Mississippi was reached. Upon this border, as upon the edge of mighty fermentations, accumulated the scum of the commonwealth. The spirit of evil was ever strong, and government was weak. Society there was low and brutal, and the lynchers were not always much better than the lynched. After Missouri and Arkansas for a time had constituted the frontier, a leap was made by war and western progress to California, and the popular tribunal, seemingly purified by the passage, settled upon the newly found gold-fields. Here, at the Ultima Thule of western migration, the institution found itself in an element totally different from any it had ever before enjoyed. The people were active and able; many of them were educated and intelligent; most of them were honest. But there

were some rogues present, else enginery for punishment had never been required. It was then that the popular tribunal assumed respectability and took a new name. The somewhat besmeared terms mob-law, lynch-law, and the like, were discarded, and the more pleasing titles of Regulators, Committee of Safety, and Committee of Vigilance were adopted.

In Nevada, Utah, Montana, and Idaho, in all frontier settlements, before the machinery of territorial legislatures and law courts was in working order, before laws were framed or executed, a tribunal formed of citizens was found necessary to prevent wholesale robbery and murder. Order-loving men, as were they who composed these tribunals, were backward enough in assuming the unwelcome duties, usually taking no steps to organize until after a score or two of murderers had escaped punishment. Each new western state, as it began to be settled, attracted thither villains of every dye, who kept the community in constant fear until it purged itself by the swift and sure executions of mobocracy or vigilance committees.

What then has the popular tribunal here become? What is a vigilance committee, and what mobocracy? The terms vigilance committee, mob-law, lynch-law, are not, as many suppose, synonymous. In some respects they are diametrically opposed in principle and in purpose. The vigilance committee is not a mob; it is to a mob as revolution is to rebellion, the name being somewhat according to its strength. Neither is a tumultuous rabble a vigilance committee. Indeed, prominent among its other functions is that of holding brute force and vulgar sentiment in wholesome fear. The vigilance committee will itself break the law, but it does not allow others to do so. It has the highest respect for law, and would be friendly with the law, notwithstanding the law is sometimes disposed to be ill-natured; yet it has a higher respect for itself than for ill-administered law. Often it has assisted

officers of the law in catching offenders, and has even gone so far as to hand insignificant and filthy criminals over to courts of justice for trial rather than soil its fingers with them.

The doctrine of Vigilance, if I may so call the idea or principle embodied in the term vigilance committee, is that the people, or a majority of them, possess the right, nay, that it is their bounden duty, to hold perpetual vigil in all matters relating to their governance, to guard their laws with circumspection, and sleeplessly to watch their servants chosen to execute them. Yet more is implied. Possessing this right, and acknowledging the obligation, it is their further right and duty, whenever they see misbehavior on the part of their servants, whenever they see the laws which they have made trampled upon, distorted, or prostituted, to rise in their sovereign privilege and remove such unfaithful servants, lawfully if possible, arbitrarily if necessary. The law must govern, absolutely, eternally, say the men of vigilance. Suffer inconvenience, injustice if need be, rather than attempt illegal reform. Every right-minded man recognizes the necessity of good conduct in human associations, to secure which experience teaches that rule is essential. In a free republican form of government every citizen contributes to the making of the laws, and is interested in seeing them executed and obeyed. The good citizen, above all others, insists that the law of the land shall be regarded. But to have law, statutes must be enacted by the people; governments must be administered by representatives of the people; officials, to be officials, must be chosen by the people. Law is the voice of the people. Now it is not the voice of the people that vigilance would disregard, but the voice of corrupt officials and bad men. Law is the will of the community as a whole; it is therefore omnipotent. When law is not omnipotent, it is nothing. This is why, when law fails—that is to say, when a power rises in society antagonistic at once

to statutory law and to the will of the people—the people must crush the enemy of their law or be crushed by it. A true vigilance committee is this expression of power on the part of the people in the absence or impotence of law. Omnipotence in rule being necessary, and law failing to be omnipotent, the element here denominated vigilance becomes omnipotent, not as a usurper, but as a friend in an emergency. Vigilance recognizes fully the supremacy of law, flies to its rescue when beaten down by its natural enemy, crime, and lifts it up, that it may always be supreme; and if the law must be broken to save the state, then it breaks it soberly, conscientiously, and under the formulas of law, not in a feeling of revenge, or in a manner usual to the disorderly rabble.

Surely vigilance has no desire to hamper legislation, to interfere with the machinery of courts, to meddle in politics, to alter or overthrow the constitution, or to usurp supreme authority. Its issue is with the mal-administration of government, rather than with government itself. Its object is to assist the law, to see the law righteously executed, to prevent perversion of the law, to defeat prostitution of the law, and not to subvert or debase the law. And to accomplish its purpose, it claims the right to resort to unlawful means, if necessary. Therefore it is easy to see that the vigilance principle does not spring from disrespect for law. Wherever law has been properly executed there never yet was a vigilance committee. The existence of a vigilance organization is *a priori* proof of the absence of good government. No well-balanced, impartial mind will condemn the existence of a vigilance committee in the absence of properly executed law; no right-thinking man will for a moment countenance a vigilance organization, could such a thing be, in the presence of good laws, well executed.

Thus defined, the principle of vigilance takes its place above formulated law, which is its creature, and is directly antagonistic to the mobile spirit which

springs from passion and contemptuously regards all law save the law of revenge. While claiming the full right of revolution, it does not choose to use it, because it is satisfied with the existing forms of government. I do not like the term *imperium in imperio*, so often applied to it. Vigilance is the guardian of the government, rather than a government within a government. This, then, is vigilance; the exercise informally of their rightful power by a people wholly in sympathy with existing forms of law. It is the same inexorable necessity of nature which civilization formulates in statutes, codes, and constitutions under the terms law and government, but acting unrestrictedly, absolute will being its only rule. The right is claimed by virtue of sovereignty alone. Under nature man is his own master. As God cannot make a being superior to himself, so society cannot establish rules for its convenience which the central power or majority of the people have not the right at any time or in any manner they see fit to disregard or annul.

Moreover, between the terms mob-violence or lynch-law and vigilance committees there is this further distinction: they are often one in appearance, though never one in principle. Often the same necessities that call forth one bring out the other; though in execution one is as the keen knife in the hands of a skilful surgeon, removing the putrefaction with the least possible injury to the body politic, the other the blunt instrument of dull wits, producing frequent defeat and disaster. The mobile spirit is displayed no more in a respectable and well-organized committee of vigilance than in a court of justice. There is no more resentment, no more furious desire to destroy a hated object in the one than in the other. Scrutinize as you will the character and conduct of the higher of these tribunals, and you fail to discover any of the elements of an uncontrolled mob. Time enough they take for deliberation, time enough for conscience and duty to be fully heard; then, with the sacred principles of truth

and justice before them, feeling that the eye of their maker and of all mankind is upon them, their minds made up, they act with cool, determinate courage.

Again, although vigilance and mobocracy have in principle little in common, they are sometimes found assuming much the same attitude toward law and toward society. Both set up their will in opposition to legally constituted authorities; both break the law, bid defiance to the law, and if it still stand in their way, snap their fingers in the face of law. The object of their members in associating is that they may be stronger than the officers of the law; in the eyes of the law both are equally criminal, both are banded brawlers, murderers, traitors. Both tyrannize tyranny, rule their rulers, and become a law unto themselves. Yet there are these further differences between them: One aims to assist a weak entrammelled government, whose officers cannot or will not execute the law; the other breaks the law usually for evil purpose. One is based upon principle, and the other upon passion. One will not act in the heat of excitement; the other throws deliberation to the wind. One is an organization officered by its most efficient members, aiming at public well-being, and acting under fixed rules of its own making; the other is an unorganized rabble, acting under momentary delirium, the tool, it may be, of political demagogues, the victim of its own intemperance. Underlying the actions of the one is justice; of the other revenge. This constitutes the difference, and by this standard we may distinguish one from the other; wherever we find a body of armed members of the community acting contrary to law or in opposition to officers of the law, be it composed of the best citizens or the worst, be its existence a necessity, its acts productive of social well-being, or otherwise, if it is an organized band, acting under fixed rules, acting with coolness and deliberation, with good intentions, determined to promote rather than to defeat the ends of justice, such a body is what upon the Pacific

Coast has become to be known as a Committee of Vigilance. Though it may have the same object in view, and though it may accomplish the same results, if the body or association be not organized or officered, if it be without constitution, by-laws, rule, or regulation, acting under momentary excitement or in the heat of passion, careless of the administration of justice, swayed only by resentment, intent on making a display, infuriate, unreasonable, vengeful, it is a mob, though composed of doctors of divinity.

It was interesting to note when President Garfield was assassinated how many staid, respectable citizens, how many officers of the government, how many women and clergymen, were in favor of taking Guiteau from prison and tearing him in pieces. That was the spirit of mobocracy, a spirit which the true vigilance committee frowns on and is the first to put down.

Thus we see that in this display of the arbitrary administration of justice, where some indeed may think they perceive the *morto popolarmente* of Machiavelli, there are many aspects, not all alike commendable or condemnable. In its highest and most perfect state, its object is to preserve the sanctity of morals, and to vindicate the supremacy of law by the overthrow of lawless law-makers and legally appointed official swindlers, together with the just punishment, after dispassionate examination, of felons who were shielded rather than punished by the subverting and inefficient execution of the law. From this high moral standpoint the modern popular tribunal descends in its severalities through every grade of mingled equity and imposition, until in its consequences it sometimes sinks into the fostering and extenuating of mob-violence, the prostituting of public morals, disrespect for statutory law and stable forms of government, into popular rather than just prosecutions, informal and unfair convictions, barbarous butcheries and public assassinations, and an ever increasing thirst for the blood of victims—in a word, into the

lowest forms of mobocracy. Such are some of the differences between intelligent and high-minded vigilance organizations, whose acts have been carefully considered and conscientiously performed, and the blood-drunken orgies of frontier lynch-law executions.

The Englishman Wyse, writing of America in 1846, failed to discover in the highest and purest popular tribunal aught else than the preposterous claim of the low, ignorant, and irresponsible rabble to the control of the government. This is scarcely to be wondered at when we see how easily even error and injustice become things too sacred to be tampered with when enshrined in law. There are few instances in America where a mob has sought to usurp the government.

Mr Wyse does not state the case fairly. A mob composed of a majority of the people, as he puts it, is not a mob. I say, a majority of the respectable, intelligent, order-loving, and law-making portion of the people is not the *mobile vulgus*, or movable common people, by which name from time immemorial a disorderly crowd convened for riotous purpose has been known. Nor did I ever hear of a riotous majority of any people claiming the right to overthrow their own laws for evil purpose, and wage illegal warfare against themselves and to their own destruction. Mobs are not composed of individuals calmly associating for the purpose of self-sacrifice for the benefit of the community, but rather for those who would sacrifice the community for self. Government under the banners of liberty and progress is as strong as the people constituting it, and never by any possibility can it be stronger until the people go back to their ancient superstition. The government of the United States, in its fundamental principles, Mr Wyse calls weak, because founded on the vacillating will of the people. This is fallacy. Only the strong and intelligent can live together under a so-called weak government. In becoming strong and

intelligent, men invariably emancipate themselves from the tyrannies of form. I fail to perceive how a government, whose principles are deep-rooted in the hearts of strong men, can be inherently weaker than one overawed by ancient superstitions. The mobs and riots of old countries are usually for the attainment of some real or imaginary right denied the people by their rulers; those of new communities spring mainly from the failure of rulers to execute the laws. Particularly has this been the case on the frontier of the United States, although wranglings over African slavery and free-love religion have sometimes been attended by riotous demonstrations. As a rule, however, the people of the great republic are and have been satisfied with their laws, and only wish to see them properly enforced. After a senseless tirade against the United States, "in whose social and political system were deep-seated and early sown the seeds of angry discord, of turbulence and crime," Mr Wyse admits "that there may be some excuse, in the absence of law, for men to adopt some rule for their own preservation," which is all the right ever claimed by our system of vigilance. And those of our own people who cry against vigilance committees and call them mobs, their members rioters and insurrectionists, their acts rabble justice, and their executions murder, were it not better they should turn their attention to the root of the matter and rectify the necessity that engenders them? Strip from law its trammels, its hypocrisy, humbug, and technical chicanery, and mete the evil-doer quick and certain punishment, and the sombre shadow of vigilance will no more darken our portals. It is a standing reproach, both to the intelligence and to the integrity of our lawmakers and our law-ministers, that a moneyed criminal, by extra-judicial strategy on the part of hired advocates, and a species of legal legerdemain, can so successfully thwart justice and escape punishment.

Before there can be any step taken toward moral

reform, the moral sense of the community must be awakened. Seldom is the moral sense raised against a bad man, even, until he commits some crime such as the law takes cognizance of and openly points out as bad. To detect crime without the aid of law must be yet more difficult. What shall we say then, what must be the state of things, the provocation, when in a community of law-loving men not given to prudishness in morals, not given to jealousy of their rulers, dormant moral sense is so roused as to single out crime, and to seize and strangle it despite of awe-inspiring law, and in direct antagonism to officers of the law? Here we see law restraining law-makers in their virtuous efforts and shielding the lawless. This interference of government in personal affairs, protecting a man against himself while failing to protect him against others, is one of the anomalies of our political system.

It is to the San Francisco Vigilance Committee of 1856, as distinguished from any other popular uprising in California or elsewhere, that the principle of vigilance owes its incarnation and recognition; for it is a recognized principle on these Pacific shores, if nowhere else; it is here a common law of the land. Its existence as a principle is due to that occasion, though its origin was elsewhere, because the leaders of that movement first raised it to and recognised it as a principle. Law-breakers and law-exterminators there have been many; but never before in the history of human progress have we seen, under a popular form of government, a city-full rise as one man, summoned by almighty conscience, attend at the bedside of sick law as having a right there, and perform a speedy and almost bloodless cure, despite the struggles of the exasperated patient.

There have not been wanting those of extreme views to come forward and claim, even, that to this movement of 1856 jurisprudence owes a new principle, morality a new standard, and mind a new departure.

If in the forces regulating human activities the movement means anything, it points significantly to a moral and beneficial human power superior to the power formulated and restricted by constitutions and statutes. If the movement means anything, if it accomplished anything, if its results remain to-day treasured in the storehouse of valuable experiences, it points significantly to a morality superior to that of fashion, and to the freeing of mind from another of its fetters. In social ethics room must be made for the principle of vigilance, and governments must be taught to recognize it. So some believe; but it is the tendency of the undisciplined mind to fall into excess. The principle is always existent, in greater or less degree, in all progressive peoples; its presence here in higher and holier proportions than ever elsewhere displayed is all we can justly claim for it.

Memphis, Tennessee, with its men of mighty beards, of cowhide boots and bowie-knives, was once famous as a boat-landing where captains stopped to hang offending travellers. In South Carolina many years ago the colonists rose and drove out the unprincipled Seth Sothel, who had misruled them for six years. Texas had its Regulators and Moderators, corresponding somewhat remotely to our Vigilance Committee, and Law and Order party, and in the country adjacent to the Sabine River, between 1838 and 1841, they often met in deadly encounter. Kangaroo courts is a later name for the lynching tribunals of this quarter, so designated from the attitude in which the judges fling themselves upon the grass round the culprit.

During the days of boat-and-mule transit crime was prevalent on the Panamá Isthmus. On the robbery of a specie train, in September, 1851, the people of Panamá declared strongly in favor of a vigilance committee organization for the purpose of clearing the Isthmus of highwaymen.

In the early days of June, 1858, a vigilance committee was organized in the city of New Orleans, a disturbed and revolutionary condition of society, similar to that which prevailed in San Francisco in the memorable era of 1856, seeming to render the movement necessary. The municipal offices were in the hands of corrupt and unscrupulous politicians, and ruffians ruled the day. An allopathic dose of vigilance was undoubtedly demanded by the exigency of the case, and the citizens undertook to administer it after the swift and bloody formula that had been adopted by the young city at the Golden Gate. The affair struck the citizens of so old a society as New Orleans with alarm, and for a time excitement ran high. After some manœuvring the mayor surrendered control of affairs into the hands of the committee, but for some reason the organization failed to work any material good to the community. The movement was charged upon the American party as a political stratagem—at any rate, after a few days of feverish uncertainty the committee disbanded without having performed any labor further than forcing the mayor to swear in the members of the committee as an extra police force. The city election transpired on the 7th of June, and the result did not seem to indicate that the Vigilants, as I shall take the liberty of calling the men of vigilance, were sustained by the people.

The Spaniards in Mexico knew little of popular tribunals, breaking the law for their own benefit almost at pleasure in early times, and later plotting the downfall of the existing government rather than rallying to its aid. British Columbia has witnessed few unlawful demonstrations on the part of the people, law always having been strong on the Fraser, and punishment sure. Other British colonies have not been so fortunate.

Notwithstanding the well-organized colonial government existing previous to and at the time of the discovery of gold in Australia, lynch-law was soon ram-

pant in the Victoria gold-fields, which at first were beyond the immediate influence of the government. The same causes led to the reign of terror there, as Chief Justice A'Beckett called it, that are found in most new settlements—laxity of law and inexorable necessity. With uplifted hands and horror-stricken visage, the English immigrant, having in reverence the wigs and woolsacks of his native island, cries: "God forbid that I should so profane the law." Yet when his cabin is robbed, and there is no minister of justice at hand, he soon learns to catch and hang a thief with as hearty a good will as ever bushman struck boar.

A vigilance committee organized at Sydney, in order to avoid the stigma attached to the term in mother countries, proposed to call the association the Private Watch. This euphemism, adopted for the benefit of sensitive conservatives, did not meet the approval of the community. Here is what the *People's Advocate* of New South Wales says of it, February 19, 1853:

"We would recommend the good-hearted fellows who are starting this movement to take the name which has already acquired for its efficiency a world-wide celebrity; a name which has thoroughly purged a great country of its imported vagabonds, and struck terror into the hearts of ruffians who had braved the tyranny of penal settlements and every punishment which the law could suggest. There is a meaning attached to the name of the vigilance committee which will carry some weight with it when the Private Watch would be looked upon with contemptuous ridicule. It is unnecessary to remind people of the origin of the vigilance committee; the whole world knows it, but of its effects few people are fully aware who have not been in California. Both before its appointment and after its suspension midnight murderers paraded the streets in defiance of the law. Fire-raising was held to be an almost unpunishable offence, because of the difficulty of its detection and the weakness of the arm of constituted authority. It was one of the subsidiary stratagems of the Van Dieman's Land and Sydney thieves. Gambling-houses were kept open at all hours of the night; no hand was uplifted, no voice raised to smite their iniquity. The foul toadstools were suffered, untrampled upon, to pollute society with their pestilential presence, until they became not only hideous deformities, which gambling-houses under any restriction must be, but until their iniquity became so great that they were the avowed and recognized harbors of refuge for murderers, robbers, thieves, and every vicious wretch who chose to avail himself of their sanctuary. Constables were defied; every

attempt to suppress the common villainy by ordinary means failed. Necessity for mutual protection had at length recourse to the memorable expedient of appointing among themselves a committee of the citizens to detect and punish crime; and these men, taking to themselves the memorable name of vigilance committee, almost instantaneously crushed the atrocious hydra. The very name of that committee terrified the ruffians who previously triumphed over society. Their haunts were broken up, their infamous organization was prostrated, and peace at once restored by the expulsion of the scoundrels who are now in Sydney, and against whom we are called upon to act. Robberies of the person are becoming frightfully prevalent, and detection extremely rare; life and property are without protection of any kind, and the whole city is at the mercy of numerous bands of experienced thieves and cutthroats. Under such a fearful state of disorder, it behooves the citizens to bestir themselves; for if they do not protect themselves, there appears to be no disposition on the part of the Executive to do anything in their behalf. It has therefore become imperative on the inhabitants to organize a vigilance committee for the city. Small bands of volunteers, armed with revolvers, will purge Sydney of her miscreants. We have no hesitation in saying that within a month every villain now at large would be lodged in gaol, or otherwise disposed of so as to be no longer an object of fear or a source of alarm. A vigilance committee for Sydney will be not only necessary, but effectual, and its very name will strike where its arm cannot reach."

Thus in new and intelligent communities, whencesoever their origin and wheresoever situated, we see appearing, as it is needed, this principle of Vigilance, which like a benignant deity delivers its votaries from evil and destruction.

CHAPTER II.

POPULAR TRIBUNALS AND POPULAR GOVERNMENT.

Vigilantibus, non dormientibus, servit lex.

Of all the classical abnormities that characterized the gold-gathering age of California, popular tribunals were the most startling. As long as the aberrations of society were confined to individual members, or appeared only in business, religious, or domestic affairs; as long as causations were easily traced and results tacitly accepted, social and commercial irregularities, such as undue dissipation, suicide, fires and failures, speculation, gambling, and gold-digging, soon became to be regarded as part of the new economy incident to the new life and its strange environment. Even a murder, now and then, or in the mines a hanging scrape, was not an object of alarm. Every man carried a pistol; whiskey was fiery; shooting was easy; and it was no wonder that now and then a man was hurt.

But when crime assumed giant proportions, overshadowing commerce, intercourse, and industry, and when the whole community rose as one man to put it down, the attitude of affairs seemed somewhat alarming. What was it, this mighty power so suddenly appearing at this juncture? In our indifference to tradition, and our wanderings from ancient ways, we had cut loose from many of the fashions and formalities which we had been taught were essential to safety. But here was something that seemed to strike at the very foundation of our social structure,

and which must shiver the fair proportions of that free government which all along the centuries mankind had been chiselling into form and comeliness. Were we prepared to try anarchical experiments, to throw our young communities into a state of social chaos, and abide the result? Might not so sweeping a principle bring perdition?

Many thought of these things who never thought before. Many asked for the first time: What is law, what government? Are our forms, our constitutions, our statute-books, and our tribunals, however entangled they may become, are they too sacred for popular touch? Or if, through our own folly or neglect, the administration of laws, with the construction and intention of which we are content, falls on incapable, unjust, or iniquitous men; and if these men, for their further enrichment or advancement, weave round themselves such a web of legal technicalities and statutory subtleties as with perjuries, ballot-box stuffings, and assistant hirelings to secure them in their positions, must good citizens forever refrain from laying hands on these Lord's Anointed?

There are men high in intellect and education, who hold that a law once formally made by the people, cannot rightly be altered or disregarded by the people except through legislative process. In the law itself, and in the creating of it, they say, is the tacit agreement of the people that they will not override or overrule it but by formulas similar to those that brought it into force. They make a law for the punishment of those who break a law. All must abide by the compact, no matter what the injustice or emergency. It were sacrilege otherwise. And yet these same persons will tell you that the people are supreme.

Now if the people are supreme, they cannot create a power superior to themselves and still remain supreme. They cannot bind themselves to one another in fetters so strong that all together, or the

ruling majority, cannot instantly break them. If the Almighty establishes an edict or enters into a compact which he cannot immediately annul, he is no longer almighty. It may be righteousness that rules him, but he is ruled. However this may be, all the supreme powers we are cognizant of make and break at pleasure.

Ask a jurist if it be right ever under any circumstances to break a law, and turning from his book he will answer you, "I find it nowhere so written." Ask him if statutes and constitutions are superior to nature and necessity, and the reply is, "The law of the land shall stand forever, or until it be legally annulled or changed; else there is no security, no safety, nor happiness or progress; else all is confusion, chaos, a whirl of anarchy and annihilation. Atoms cannot hold together without law; no more can individuals." With heart and mind still unsatisfied, in your conscientious distress to know the truth, go to the divine, to him who represents the power behind human forms, and put the question; and he reads you likewise from his book, "Be subject unto the higher powers; the powers that be are ordained of God." Ask him if the powers for evil are ordained of God, and he stands before you dumb with indignant astonishment at your unhallowed impudence. Now we the people, who are neither jurist nor divine, we would say that if Ned McGowan, Murray, Terry, and others with whom in due time I will make the reader acquainted, were ministers of justice ordained of God, then God ordained some very bad men judges in California, and happily he ordained a people to rise and drive them out. "I know of no higher power than the constitution of my country," exclaims John B. Weller in a burst of anti-vigilance patriotism—which was unfortunate for Mr Weller. The constitution is a very good thing, an implement by which to regulate delegated social force, for which I entertain profound respect, and before which I am

prepared to bow in company with all good men who thus recognize the necessity of yielding some portion of their individual will for the benefit of the whole. I respect likewise the steam-engine that carries me ten miles more quickly than I can walk one. That the people can create a power higher than themselves is a palpable absurdity, which it is idle to discuss.

Ask a jurist his opinion of vigilance committees, of the morality of such movements, more particularly of the San Francisco Vigilance Committee of 1856, that being the representative organization of popular tribunals in the Pacific States and the only one of which there is much general knowledge, and the answer will be: "Had the people been as ready to assist the law as they were to disregard it, there would have been no necessity for a committee of vigilance." Ask him if, with venal judges, knavish custodians of public prisons, and an atmosphere rank with political corruption pervading courts of justice, it were possible for the people to assist law to the successful punishment of crime, and the answer will be: "Had they done their duty at primaries, at the polls, as jurors, as citizens of the commonwealth, there would have been no corrupt officials or foul political airs." Press him further, and ask if, with shoulder-strikers reigning in every ward, with ballot-box stuffers ruling elections, with professionals as jurors, witnesses, and bondsmen, and magistrates who feared the roughs far more than God or good men, it were possible for the people to do fair duty as citizens, and the answer will be: "It was their own fault, and by reason of their neglect of duty alone that all these evils had come upon them." Pump until doomsday and this is all we shall get from the deepest wells of legal or religious lore.

A century or two ago and this would have been sufficient, but it is not so now. We cannot but feel, though in the presence of august book-magnates who have garnered the experience of the ages, and upon whom has fallen the spirit of omnipotent intelligence,

that we mean one thing while they refer to another. We cannot but feel that these our teachers are either stupidly or wilfully blind; that either they will not see the new light which renders transparent the old tricks of bigotry, or, beholding, they can only stop and stutter. Instead of answering they evade the question, just as in the practice of their profession they too often feel in duty bound to prefer jugglery before justice.

The time has come when the instructors of progressive peoples must fortify their time-honored positions or abandon them. Thoughtful men are no longer satisfied with artificial enlargements, thick-soled shoes, and cunningly contrived masks, such as the Greek actors employed in increasing their stature and the volume of their voice.

The gods themselves once so complained. When ancient rationalists first questioned the existence of the Olympian deities, Jupiter was in heroics; heaven shook with his wrath. "Men are actually discussing," he roared, "whether they shall hereafter worship at all." "It is all your own fault!" exclaimed Momus, the jester of the Olympian conclave; "the gods have brought the trouble on themselves through a neglect of their duties." And Momus is right. For a lying press, for iniquitous politicians and an ignorant pulpit, for the absurdities of fashion and the injustice of society, for prostitution, for gambling, for thieving, for the knaveries of the scheming capitalist, the grindings of monopolists, and the swindlings of corporations, the people have only themselves to blame, for all these enormities spring from the people and exist only on the sufferance of the people. And as he is as lawless who disregards law as he who overthrows it, so he is as immoral who fails in his political duty as he who breaks some social conventionality. It is a common and foolish fashion to denounce government for evils rooted in the people.

I admit that the people of San Francisco did not

their whole duty as citizens; that, absorbed in their money-gettings and careless of the city's future, they avoided the polls and shirked public responsibility.

But this is not the question. Americans and others, both before and since the time of which I write, have been guilty of like neglect. Adulterated as has been the stream of our progress by enfranchising low foreigners and white-washing ignorant Africans; prostituted as are our politics by charlatans and demagogues, both native and imported, the polls and public duty offer few attractions to one whose pride is enlightened liberty alone, and who abhors villainy even when found under the guise of patriotism. The deep abasement of our once so highly prized prerogatives, however, offers no excuse for the neglect of distasteful duty. That the wicked rule is reason all the more that the righteous should rally.

Yet another cause existed of the indifference in public affairs manifested by the people of San Francisco during the city's infancy, which was the feverish and unstable character of the community. It is safe to say that prior to 1855 one fourth of the resident population of San Francisco changed every year; and that of those constituting the Vigilance Committee of 1856, not one in ten had belonged to the Committee of 1851. People were constantly coming and going, settling and selling out. All was confusion; few thought of or cared for the welfare of the young metropolis. Hence, if the way to determine the right or wrong of the action of the people of San Francisco who in 1856 organized themselves a popular tribunal above and independent of law be in casting blame on some one, on whom shall it rest? On those who wintered there in 1853 or 1855, or on those who happened to be citizens in 1856?

Again, men will not display the same zeal and activity in public as in private affairs, at least until public affairs are conducted more as are private affairs. They will not volunteer as readily and persevere as

faithfully when called to assist the authorities, as when acting independently under their own organization. We are all of us so constituted that in order to accomplish anything well there must be enthusiasm. This absent, and man is but a machine, and a very poor one. It was hardly to be expected that the workers of San Francisco would leave with alacrity their shops, their benches, their banks, and their counting-houses to perform duties which they had already paid public servants to do. More particularly would this feeling prevail in the absence of confidence that, when they had spent their time and money in the public service, in hunting criminals and delivering them to the authorities, speedy and impartial justice would be meted. Action springs from anticipation of success; enthusiasm languishes under repeated disappointments.

But what kind of logic is this of our masters? Whoever before thought of determining public policy by flinging odium on generations gone by? For such were the rapidly revolving years of this pregnant epoch, each a generation, if counted by changes and events. It is as if the shipwrecked mariner imploring assistance from the shore should be told: "Had you not put to sea in a leaky vessel you would not now need help;" or as if a physician called to administer to a sick person should answer: "Had your grandfather obeyed the laws of nature you would have no need of medicine." The question was not what might have been done under other circumstances, but what should these citizens of San Francisco do now; what was right for them to do, who by reason of their own fault, or the fault of those who had been citizens before them, had come to political grief, and now saw crime grinning destruction upon them.

What says society in other exigencies where the law is impotent or wilfully neglectful? How stands the matter in regard to the husband who slays the destroyer of his wife's honor, or the father who kills

the betrayer of his child? They break the law; the law frowns; but there is not a court in America that will capitally convict them. They do murder; but no jury will adjudge them to death, and no judge dare do it. Acting as we do, we might as well look this subject squarely in the face, and then acknowledge, like men, that there is a power, omnipresent, behind and above law, and of which legal forms are but the imperfect expression. This does not degrade law, and is no attempt to abrogate it. The law is the implement of the supreme power for the accomplishment of a purpose. If it works well, it is for the benefit of the people; if ill, it must be repaired or thrown aside. If this can be done formally, by edicts, legislative enactments, sheriffs, judges, and the like, so much the better; if not, then the ultimate power must do it informally, and in its own way. It is perhaps too great a strain on human nature to expect those who live by the law to admit that under any circumstances the law may rightly be broken. What do we say of the man who makes his rule of conduct in life his master and not his servant? That he is a stubborn dolt. So we may likewise say of the people who write their laws in ink so indelible that it is beyond their power to erase them. They are the slaves of their superstition, the idolaters of the calf which they have made.

In all this I am far from advocating vigilance as a substitute for law. Vigilance is the law's mentor as well as the law's master. It does not wish to overthrow the law, else it is not vigilance, but revolution. To our learned friends upon the bench we might reverse their standing argument, and with far more propriety and pertinency say, if law and government were what they should be, there would never be a vigilance committee. That we may need it no more is the prayer of all good citizens.

There are others whose teachings are worthy our attention. Saint Paul says: "We know that the

law is good if a man use it lawfully." Plutarch finds the truth in "following the most ancient law of nature, which makes the weak obey the strong, beginning with God and ending with the irrational part of creation; for these are taught by nature to use the advantages which their strength gives them over the weak." Blackstone teaches that "no human laws are of any validity if contrary to the law of nature; and such of them as are valid derive all their force and all their authority mediately or immediately from this original." Even Machiavelli, prince of princes' servants, is not far behind the rest when he writes: "Perchè, così come gli buoni costumi, per mantenersi, hanno bisogno delle leggi; così le leggi, per osservarsi, hanno bisogno de' buoni costumi." And Favart observes: "Tout citoyen est roi sous un roi citoyen." But strongest of all from him best capable of telling us the truth. "Let men learn that a legislature is not our God upon earth," says Herbert Spencer, "though, by the authority they ascribe to it, and the things they expect from it, they would seem to think it is. Let them learn rather that it is an institution serving a purely temporary purpose, whose power, when not stolen, is at the best borrowed. . . . Nay, indeed, have we not seen that government is essentially immoral? Is it not the offspring of evil, bearing about it all the marks of its parentage? Does it not exist because crime exists? Is it not strong, or as we say, despotic, when crime is great? Is there not more liberty, that is, less government, as crime diminishes? And must not government cease when crime ceases, for very lack of objects on which to perform its function? Not only does magisterial power exist because of evil, but it exists by evil. Violence is employed to maintain it; and all violence involves criminality. Soldiers, policemen, and gaolers; swords, batons, and fetters, are instruments for inflicting pain; and all infliction of pain is in the abstract wrong. The state employs evil weapons to subjugate evil, and is alike contaminated

by the objects with which it deals and the means by which it works. Morality cannot recognize it; for morality, being simply a statement of the perfect law, can give no countenance to anything growing out of, and living by, breaches of that law." To which Charles Nordhoff adds his weight in these pertinent words: "Back of all laws and all authority must lie a belief that in the last resort every citizen will defend his own rights. You cannot put a corporal's guard at every man's door. The thief or robber at bottom never fears the law and the government nearly as much as he does the right arm and courage of the man he seeks to injure." What says the corner-stone of liberty, our own Declaration of Independence? "To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government." Likewise the preamble to the Massachusetts constitution in 1780: "Whenever these great objects," namely, liberty and the protection of the body politic in its natural rights, "are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness." So it is elsewhere fifty times maintained. Indeed, it is not the right to alter, but the method of doing it, that is questioned.

Let us take a look at this thing called law; not alone at the laws made by men for their own governance, and by virtue of which act, were there no other, their superiority over all material things is manifest, but at that subtle force everywhere apparent. It is not necessary to go to sheep-bound books to find out law. Statutes are form rather than force, or at best force formulated.

The Ionic philosophers saw one only all-pervading

principle in nature, though personified in the minds of some by one element, and in the minds of others by another. Thus Thales thought it water, Anaxagoras atoms, Anaximenes air, Heraclitos fire. Science and religion now go behind all these and call this principle law; the one under title of the forces of nature, the other under that of the will of God. But whatever it is, science and religion see it, feel it, and believe in the same thing, though they call it by different names and numberless sub-names. We feel God in nature and in ourselves; as the blind child, feeling with its fingers the lineaments of the face it loves, reads thus the secrets of the heart behind it. Uppermost in the mind of the jurist are the written rules for the regulation of human societies; in the mind of the moralist the unwritten rules; the broader conceptions of the scientist refer mankind as well as nature to fixed laws. "Les lois," says Montesquieu, "dans la signification la plus étendue, sont les rapports nécessaires qui dérivent de la nature des choses; et dans ce sens, tous les êtres ont leurs lois; la divinité a ses lois, le monde matériel a ses lois, les intelligences supérieurs à l'homme ont leur lois, les bêtes ont leurs lois, l'homme a ses lois."

But when thus or otherwise defined, we are as far as ever from knowing what law is. A religionist like Hooker places the seat of law in the bosom of God, who chooses himself to be influenced by the laws which he establishes; whence arise law-worship and disputes of various kinds. The law of nature, in its requirements and punishments, is the same whether it comes to us through our senses and our reason, or through pretended revelation. All that the most inspired can do is to throw it into the same category with all unknowable phenomena, and there for the present leave it. Speculate as we will, the *cogito, ergo sum* of philosophy is our bound.

We know that it is, and we know of it little else. Law is everywhere. Sit in your house, there rise

round you the unwritten obligations between husband and wife, parents and children, master and servant. Go out upon the street, and at every turn you encounter some one of the thousand rules which regulate man's intercourse with man. There are laws of health, of business, of fashion, of pleasure. Out upon the sea, out in the wilderness; all things animate and inanimate, all things terrestrial and celestial, all things palpaple and impalpable, are under dominion of law. By law worlds whirl and atoms are held in place. By law suns shine, mountains stand, and seas yield their moisture. By law winds blow, rains fall, flowers bloom, birds fly, fishes swim, beasts growl, and man murders. Under law all that is strong and dreadful lies bound. Law flings lightning about the heavens, cracks the thunder-cloud, melts the shrouds of winter, and swells the buds of spring. From molecule to planet, from invisible mist-particle to the mighty main, from the breath of sleeping infant to the roaring tempest, all observe order, office, place, and form. Even the apparently erratic affairs of men, which until recently were regarded as under the immediate governance of free and reasoning intelligence, are now, for the most part, referred to laws as the mainspring of their guidance. That most subtile of inspirations, the mind of man, we now perceive to be balanced by law. The animate and rational is subservient to the seemingly inanimate and irrational, and by obedience to these laws creatures and things alone exist.

Neither is it alone force, but as it would seem intelligent force that rules this universe. The crystal forms not by the laws of the granite, nor the granite by the laws of the crystal. The plant grows not as the river grows, nor is man made as the mountain is made. Each after its kind fulfils its law. Call it by what name you will, abstract spiritual agency, cosmo-mechanical energy, nature or deity, its inscrutible sympathies and antipathies are manifested no less in

blind matter than in enlightened intellect. Whether this power be increate and eternal, or finite; whether it is conceived *per se* and exists *in se*, or is the result of *a priori* conceptions and exists *per aliud*, it is clear to all that system and design are among its most prominent features.

Further than this, every person and every thing imposes laws on every other person and every other thing. Under force exists all; physical force, first dominator, then moral force, moral force being the legitimate result of physical force, the legitimate and justifiable result, which makes might right, else we should not find it so. Nature is law's logic, law's reason. Whatever in nature man finds stronger than himself he calls right, whatever is weaker he pronounces wrong. We do not ask if the air has the right to blow on us, or the water to drown us, or the fire to burn us; but when human societies commit uncontrollable follies they are anathema, because they are susceptible of improvement. In framing laws for the regulation of nations in their relations one toward another, might is first considered and then right. International law is little else than an attempt to refine barbarisms, not an attempt to eradicate them. Even lawless war has its laws, and the law-breaking *duello;* likewise lust, and robbery, and all those worse than beastly doings which cause God to blush for man whom he has made, and for the laws which so sadly fail to secure in him decency.

Follow nature back into the infinite, and, obscure as are its operations to us, we yet can see even here a government under mechanical laws. No new force is found which may not have had existence from the beginning, and neither force nor matter is distinguishable in one world which may not be common to all worlds. That is to say, by observation, uniformity of action and regularity in results have been discovered in nature, and have been called laws. The genesis of man is but a sequel to the genesis of nature. So

linked with each other are all the natural sciences, so interwoven are the forces which govern man and nature, that we can see in the progress of civilization only a continuation of that process of evolution everywhere apparent in the physical world. And this law of nature is as far back as we can go in searching the origin of law. Law is universal and singular; whether natural or artificial, it is one and the same principle.

The forces of nature are diverse, and are held in equilibrium by their antagonisms. Some of them at times appear to act contrary to the interests of man, yet all favor him when duly restricted and directed. Wind and water may be trained to sail ships and turn mills, and the lightning which strikes destruction is bridled to carry messages. Society, at first free, accepts self-subordination for the purpose of subordinating others, which done, it struggles for freedom. This partially achieved, it lapses into yet more stringent restraints.

It appears not a little strange that of all created things civilized man should not be able to live in harmony with his kind without first binding himself in social, political, and theological fetters. In this respect he is more brutish than brutes, more extravagant in his senselessness than inanimate things. As the heathen by the mouth of Protagoras put it, "Man was overlooked in the original distribution of gifts by Epimetheus among mortal creatures, and was left the only base and defenceless animal in creation; and though Prometheus strove to remedy his brother's oversight as far as he could by giving him fire and other means of life, still there was no principle of government, and man kept slaying and plundering his brother man; till at last Jove took pity on him, and sent Hermes to distribute justice and friendship, not to a favored few but to all alike."

Inanimate things and irrational creatures must blindly obey the law of nature, but rational men find

it necessary to place themselves under restrictions of their own making in order to dwell together in harmony. In masses of progressive men there appears to be a mental inaptitude for single and independent self-guidance; and failing the instincts of the brute, a code of conduct must be marked out and stamped with some sort of authority. Their well-being left by nature partially free, they must needs fetter it immediately or their behavior becomes such as to bring upon themselves destruction. Should man some day become emancipated from the law of nature, he may hope to emancipate himself from the restrictions which the boon of free-will lays upon him. Even the beasts which when wild might roam at will, tamed must have a halter. So it is with wild and tamed men. Laws are the cords that tie each person in his place. In proportion as private and public intelligence increases the authority of rulers decreases. Law arises from necessity, and not from the desire of individuals for restraint. Though in every human aggregation there must be some sort of subordination, in the earlier and incoherent stages it is very slight; only with the evolution of society is a complex governmental system evolved. The animalism in man must be restrained, if not on principles of morality then from expediency. If man were only animal, then bird-law, or fish-law, or beast-law would suffice. But man is more than animal, and animal laws do not answer for the regulation of intellectual properties. The normal condition of mankind is progress. To progress belong wealth, rights, and mental culture; and for the preservation of these there must be a yielding of some portion of the individual will to the united will of the nation, some regulations or laws which all are bound to obey.

It is into such bondage man is born. Innumerable laws, twisted into the cable of one great law, bind him at the outset to his treadmill existence. And as if this were not enough he straightway sets about formu-

lating forces which shall place him under new restrictions, light at first, but made stronger at each step that lifts him above brute existence. Peopling the heavens with dire intelligences, he passes an epoch of spiritual and political superstitions in which the mind becomes stupefied by an agony of slavish fear. From this despotism, in due time, he awakens, rattles his chains, breaks some of them, but only to find stronger, finer cords with each emancipation. Thus paradoxical is our freedom when it comes, liberty leading only to greater bondage; for the more advanced the civilization the more powerful the unwritten law. Is it not humiliating, is it not far from high or holy satisfaction, the thought that of all animals man alone should require conventional rules immediately he associates in a civilized way; that with his intelligence and reason he should require laws to govern him, when brutes associate in comparative harmony, each with its kind, without the appointment of legislature, governor, judge, or hangman? Obviously this is the penalty man pays for his reason. It is because he is a reasonable creature that he is forced thus to regulate his conduct according to reason. It is because he is one with the eternal all-ruling intelligence, that intelligence is necessary in the direction of his affairs. Yet if we so conclude that in God's stead man rules himself; that nature makes not laws for its creator; that man's intelligence is above nature, and nature makes no laws for the intellect of man—still I should say so much the worse for an intelligence which so humiliates intelligence, and I should find nothing admirable or worshipful in such domination.

But however may seem to us the origin of law and the manufacturing of statutes, the necessity of written rules we must recognize. Law we must have, and government, for so it is appointed unto man. And good citizens will obey the law and support the government; for it is for them and their children, as

against the wicked, as protection from those who would injure them, that laws are made and governors placed in authority to execute the laws. But to talk of the sacredness of law, at this day, is to clothe rules and prescriptions with the superstitious veneration which enshrouded them of old. Government is, or should be, the united will of a majority of the people coöperated for protection against that spirit of evil which seems to take possession in a greater or less degree of certain members of every community; and there is nothing honorable, august, or sacred in the office, or in the person of him who exercises delegated power, which is not found in the persons of those who bestow it. Yet mankind are slow to shake off this superstition; so slow that from the divine right of kings they step to the divine right of legislators, and the despotism of monarchy is succeeded by a despotism of democracy.

The strongest element of social subordination is found in that awe in which the masses hold the possessors of power; and those high-sounding titles and imposing pageantries which unduly magnify the actions of officials so foster in the popular mind this spirit of reverence as to make disloyalty the greatest of crimes.

The very words and symbols of authority, such as legal verbiage, red tape and seals, and all that claptrap of justice of which wigs, gowns, and divers hollow ceremonies are a part, tend to impose upon the people and fill their minds with fear as of some solemn mysterious power. When the Athenian leaders of popular reform, Pericles and Ephialtes, talked of abolishing the high court of the Areopagus, Æschylus in his great Triology represented the venerable court as having been founded by Pallas for the trial of Orestes, and so held it up as an institution ever to be revered by every pious Athenian. Up to the year 1823, when Mr Black, editor of the *Morning Chronicle*, attacked some of the vices and absurdities of En-

glish law, the judicature of England was regarded a model of perfection.

Not justice alone, but courts of justice, in the eyes of ignorance, are given us by the gods. The most prominent effort of philosophy to-day is to rescue from empiricism the laws under which human beings aggregate and live.

From the worship of demi-gods and heroes, from the Hebrew Scriptures or other holy books, from the Cæsarian despotism, or from some other source, mankind became imbued with the opinion that kings, as representatives of divine power on earth, should be implicitly obeyed; nor was it until a comparatively recent period that the theory of original compact between the ruler and his subjects was recognized. Blood revenge was held by the savage a sacred duty, as civilized law to-day is held by certain of its ministers a sacred thing.

The earliest form of government, after the government of environment, is the authority exercised by the parent over the child. The child is born helpless, and in its rearing and education it must adapt itself to the more experienced will of the parent. The father of the family becomes the patriarch of an aggregation of families. Posterity deifies his memory, and he takes his place among the gods of the national mythology. At length the doctrine of ancestral divinity is applied to the living monarch. Although he may not yet be deemed divine, his mission is. Although not a god, he has the authority of a god, delegated, it may be, from his dead ancestors, and later from the creator. He is respected by his subjects as of heavenly origin. He is addressed in the terms in which the creator is addressed, Majesty, Lord. Obeisance is made to him as to God. Men hold their lives and their property subject to his will, submitting to him, as vicegerent of the creator, as they submit to God, their maker. But with the elevation of the intellect

comes the downfall of the divine theory of king-craft. The monarch is divested of his supernatural robes; he is permitted to rule at the will of the people. Loyalty comes to mean patriotism rather than abject submission.

Now patriotism is but a reflex of egotism, and respect for statutes and constitutions is but another form of loyalty. And as excessive love of country is excessive self-love, so undue worship of forms of law is a part of that superstitious loyalty which of old held to the doctrine of divine kingship. If reverence is anywhere due, whatever good there may be in loyalty, in that sentiment which unites individuals under a common head, it is not the power of law which should be reverenced, but the power which creates and sustains law. This doctrine of divine kingship appears, in a sort of inverted form, in the Athenian's creed, which held it dangerous for a man to rise above his fellows—whence ostracism, or oyster-shell voting a too ambitious man out of the country.

From this divine king-worship have sprung many of the courtesies of modern society, expressions of fear, awe, propitiation, submission, as well as political subordination. Form of some kind is necessary. I have said that the forces of nature are held in equilibrium by their antagonisms. Throughout the universe we see two great contending powers, attraction and repulsion, both of which are essential to development, nay, to life itself. It is the action and reaction of these opposing forces that give form and life to matter, that underlie all development, that separate the chaos of nebulæ into systems of worlds, and systems of vegetable and animal organisms. So it is in society. It is the tendency of opposing forces toward an equilibrium that constitutes progress. If wealth and culture and rank and power had, from the beginning, been given in equal parts to every individual, there would be no activity, no struggle, no progress. The laws of man and the laws of matter are correlative.

As refinement and good morals assert dominion crime diminishes, and thus the penalty that the community must pay for the evil which is done in it is lessened. What will quicker arouse the spirit of liberty than despotism, of order than anarchy? How could we value virtue but for vice? Civilization may have been dearly purchased at the cost of so much suffering and wickedness, but without war, bigotry, murder, tyranny—in short, without the combined evils incident to humanity, the very existence of progressional phenomena is unthinkable. Nevertheless, each new blessing only opens the door to new bondages.

Between the forces of society and the laws by which those forces act there is a vast difference, a difference not always recognized by legislators and jurists. Often law is mistaken for force, and force for law. If I toss a ball into the air, the law of gravitation is not subverted, though its force may be. When laws antagonistic both to the forces that move society and to the laws that govern such forces are placed on the statute-book, they are certain to be either annulled or to stand inoperative. Without the support of the people, I say, statutes are the stolidest of dead things. Solon was well aware that his laws were not the best that could be made, but they were the best the Athenians would receive. Self-preservation and all other instincts are forces, and their behavior under given conditions reveals to us the laws under which they act. Social forces make for themselves sociological laws; statutory laws are neither the one nor the other, but to remain in force they must be consistent with both. Many say that popular tribunals are good in theory but wrong in practice. Now ignorance alone affirms of a thing that it may be correct in theory, and at the same time impracticable. Nothing true in theory can be untrue in practice; if a plan fails in its application, then clearly the hypothesis is at fault.

Often we hear remarked of an enactment, It is a

good law, but impossible of execution. How absurd! A law impossible of execution, or that otherwise falls far short of its purpose, is not a good law, is worse than no law at all. Stupidly we look to legislation as an infallible panacea for every social ill, and never cease alternately to beseech and curse the demi-gods who sit in council to make our laws. Thus endless expectation waits on endless disappointment.

This doctrine of the divine right of kings and passive obedience on the part of the people never obtained in Anglo-Saxon America, and least of all in California. So sovereign in thought and feeling were the people of this new commonwealth, that traditional forms and conventional restraint were for the most part thrown aside. At the first every mining district made its own laws and regulated its own affairs. As in savagism, government, which according to the modern ideal, is the protection of life and property and the punishment of crime, was absent. And indeed they did very well without it, for there was little property, save that of a portable kind, and every man defended his own life or left it without defence. He punished crimes committed against himself, if he was able; if not, he left them unpunished. Later came that loyalty which springs from social compact, a compact which delegates certain rights of the individual to society on condition that society shall protect him in other rights, the conscience as well as the person gradually becoming bound by it. But when established forms are warped for vile purposes by a dishonest minority, then the principle of self-preservation comes in, which our laws and our constitution, as well as every instinct of our nature, hold to be first.

The whole matter—that is, the right of vigilance, not the expediency or the manner of its execution—turns after all on the right of revolution, a right which *a priori* few deny, howsoever one complains when in its

incipiency it may tread on one's interests or prejudices. I say the *morale* of that class of social eruptions which in California took the name of vigilance committees turns on one's view of this right of revolution and on one's general conceptions of law and ethics. Were Luther, and Cromwell, and Washington right? Were Coleman, and Dempster, and Truett wrong? And if it be true that under sufficient provocation a number of persons possess the right to rebel against their rulers, then we might enquire how much provocation is necessary to render rebellion justifiable, and how many robbers, or murderers, or disturbers of the public peace must band before their acts shall be raised from the category of crime to the dignity of insurrection.

I do not mean to say that the vigilance committees in California, and elsewhere in the Pacific States, were revolutionary in their character. They were not. It was no part of their purpose in any instance to overthrow the government, to usurp political power, or to clog the machinery of legislation or of law. The principle involved, however, is the same. It is the act, rather than the motive, that the law judges. The question is, not whether it is right to break the law in order to accomplish a good purpose, but whether it is ever right to break the law at all.

On this question the ablest minds, not alone in California, but throughout the world, as before intimated, were at issue. Though tacitly admitting the right of revolution, there were those who denied the exercise of that right. And differences of opinion have existed, and do still exist, both as to the right and the policy of an arbitrary assumption of administrative power by the people under any circumstances. Better, some say, that virtuous citizens should throw their weight into the balance with legislature and law courts, and so achieve the right unstained by lawless blood. To sanction the doing of evil that good may come is to tread on dangerous ground, and estab-

lish a precedent which some day may recoil on its authors with terrible effect. Where the law ends, tyranny begins; the cure is worse than the disease. Such and many other like maxims are brought forward in defence of obedience to the existing laws of the land under any and all circumstances.

On the other hand the right of revolution is maintained as the dearest right of a free people. Law is the servant and not the master of men. When the law, made by a majority of citizens, becomes dead or inutile, it is not only the privilege but the duty of the majority to adopt new rules for the governance and protection of society. As a rule the minority contend that the state as a political organism embodies sovereign power, and that the power of the state is superior to the power of the people, while the majority maintain that the people are sovereign. If the laws and constitution are contrary to the will of the majority, then the minority rule; if a majority of the people possess the sovereign power, it seems paradoxical to allege that they can commit treason against themselves. Respect for the law, obedience to righteous law, these are the questions involved. Manifestly it is the duty of every individual to heed and obey the laws; thus far both sides agree, and thus far there may be a tincture of divinity in the existing laws, for statutory law is supposed to embody most of the divine and moral laws. But it is not that species of divinity attributed to law from a study of the law's mystical technicalities by the high priests of its idolatry, which makes form superior to substance, and bows before the skeleton long after the soul has departed.

Hence arose two parties, the Law and Order party, and the Popular Tribunal party. Both sides agreed that the laws of the land should be obeyed, but in practice there was this difference: The popular party—that is to say the people, the masses, of which committees of vigilance are always composed—were as a

rule industrious, orderly, God-fearing, and law-abiding men. They were the class that laws are made to protect and not to punish. The law and order party, after including a certain class of lawyers and officials, was composed in a great measure of the lawless and orderless, habitual law-breakers, who lived not by honest labor, but by subverting and distorting the law so that they might fatten on the labor of others, and who estimated the justice of the judge by their own villainy; and it was seemingly fit that those who lived by the breaking of laws should thus band for mutual support. This was the class the laws were made to punish; but in their hands, and in the hands of their masters whom they had elevated to office, it constituted a safe protection for them, and was made to punish those only whom it should have protected. It was wholly an anomalous condition of things, and to judge the action of early Californians by the rules of older societies is wrong. No wonder these men saw divinity in law; it was the only kind of divinity many of them were ever able to discern; the divinity of the ballot-box, of jails and city halls; that devilish divinity which affords protection from lawful penalties incurred by promiscuous robbery and murder.

I say it is absurd to charge the members of the San Francisco Vigilance Committee with disrespect for the laws. Their deference was not displayed in loud protestations of patriotism, in fanatical adoration of the capped and gowned goddess of liberty, or in lung-splitting reverence for a piece of starred and striped bunting; these were the sounding brass and tinkling cymbal of the law and order party. The deference of the mercantile and industrial classes for law was manifest in practice rather than in profession. Their daily life was a standing commentary on their respect for and obedience to the laws of God and the laws of their country, even if they did somewhat roughly handle the law in rescuing it from the clutches of wicked men.

Not disrespect for the law, nor a denial of the human and divine right of law to be obeyed; not the absence of a necessity for law; not a lack of due deference to judges, governors, and administrators of the law when such deference was their due, when it was not the deference of subjects to a master but the deference of freemen for the instrument which for the time embodied their common rule of conduct, which would result in the greatest good to the greatest number—nothing of this kind can rightly be charged on members of vigilance committees. It was the right of a majority of the people to suspend the action of the law, or to change the existing form of law or of government by the surest and most direct method, whenever they deemed it essential to the well-being of society to do so—and this, if necessary, without waiting the slower, less effectual, and less certain means provided by constitution or statute. In short it was the right of revolution which they claimed; a right more divine than the divine right of law; a right stoutly sustained as the bulwark of all our liberties, from the days of John, king of England, to the present time; a right which cannot be denied without stopping the wheels of progress and sending mankind back into the Dark Age.

CHAPTER III.

ENGENDERING CONDITIONS.

There is what I call the American idea.
Theodore Parker.

For the further elucidation of the subject, I propose to give a historical sketch of Popular Tribunals in the Pacific States, more particularly in San Francisco, covering a period of thirty years from their inception.

And first of all, a glance at the several phases of early society throughout this territory, with special reference to such causes and conditions as stimulate or retard the displays of irregular administration here engendered.

The conquerors of Central America and Mexico, and those who followed in their wake as settlers, were not subjected to the same species of anomalous justice that later influenced the loose-minded pioneers of Anglo-Saxon heritage. For this two causes may be assigned: First, the Spanish settlers were colonists, under the immediate rule of a despotic governor appointed by a jealous sovereign. In most instances this governor exercised over his subjects the power of life and death; standing in the king's stead, he was responsible for his acts only to the crown. His government was military as well as civil, and irregularities, if not committed by himself, were grave offenses. Moreover, loyalty was so inbred in the Spanish character, so part of that superstition which constitutes the second cause why vigilance committees could not exercise their sway under Spanish rule, that to oppose their

will to that of the sovereign or his deputy, was an act so sacrilegious as to be entertained only by the most abandoned. To the uttermost ends of the earth the wrath of heaven would pursue the disobedient. And whatsoever element of society there might be not under the complete dominion of secular power, the church was sure to hold in subjection. The Spanish colonists were not their own masters. They could not go and come as they pleased; they could not explore, subdue, and occupy except by permission. Unless thoroughly loyal to church and state, they were not fit subjects for colonization; they were not Spaniards; they were heretics, worse than Moslem or Jew, and fit only for death and perdition. They could act in any direction only by permission of the creator himself, as spoken by his vicegerents, who were in temporal affairs the king of Spain or his deputy, and in spiritual matters the pope of Rome or his deputy. Later, when both church and state by their sottish inanity lost much of their power, and the yoke of Spain fell from the necks of the colonists, society split into innumerable opposing factions, which have been uniting and dividing and fighting each other much of the time since. All the while crime was rampant. Few were too good to steal. The rich were forced to contribute of their wealth to the support of the party in power; the officers of the government were seldom zealous except under the stimulus of a bribe; justice was bought and sold, and there was little difference, except in outward appearance, between the professional highwayman and the peculator in office. Meanwhile there spawned a hybrid race, brute-low in stupidity; and these, poor and priest-ridden, were glad to eat and sun themselves in peace, careless of all things else. People, in our Anglo-American sense of the word, there were few; surely it is apparent enough that there was not here the material for a vigilance committee. Of banditti there were always plenty. Highway robbery was here raised to a science. Instead

of taking the road and keeping it, thereby stopping travel and ruining the business, the marauders would migrate irregularly, so as always to have some part of their field lying fallow. But alternately almost every section was visited, and at such times every highway swarmed with robbers. The criminal statistics of republican Mexico show some twenty thousand arrests annually, beside which those of California, even during her periods of most stringent reform, seem tame enough. And the guard was sometimes even more dangerous than the outlaw; it was the proper thing for a hired escort to do, to flee at the approach of banditti, if indeed they did not assist in the pillage. Convicts were sometimes bound in couples by means of iron girdles, sometimes with chains six feet in length, and put to work on the highway. The jails of Sonora were poor affairs; and as for police, in many parts they were unknown. Banditti became so bold at times as to enter a town and rob a store in open day; if they confined their operations to the road and to strangers, the authorities were not quick to molest them.

The constitution of Sonora provided a tribunal of justice composed of three chambers with *letrados*, that is to say, three judges and a *fiscal;* the letrados to be chosen by non-professionals. These were appointed every four years by congress. Magistrates were selected under special laws which defined their power; some were appointed by the governor with approval of congress. Frequently judges were placed in office expressly to be used as the tools of those electing them, even as under governments of more pretensions. Few were learned in jurisprudence, and many could not read or write.

An old Mexican living in the robber-infected region of Jalisco called together the neighboring rancheros and made war in a body on the banditti. Soon the district was cleared of them; but in their zeal the armed corps did not stop there. Whenever any sus-

picious-looking persons were seen lounging about, they were shot down without waiting to undergo the forms and uncertainties of law. When asked if in this way it did not sometimes happen that the innocent were punished with the guilty, the old man answered: "Oh, yes; but the average on the right side is sure to be kept up!"

The northern part of Lower California has been much of the time in a disorganized state, the orders of the supreme government being unknown; and, indeed, had they been known they would not have been regarded along the frontier, some claiming to be under the government of Alta California and some professing to belong to Baja California, which was equivalent to being under the jurisdiction of neither.

It was held to be a very wicked thing to kill a priest; more wicked than to kill a man less sure of seraphic glories. In 1805 a woman murdered Father Surroca in his bed because she had been dismissed from the padre's house. What Surroca had done to her is not stated. The order for the execution of the woman, together with two natives, was passed by the auditor of war on the last day of the year aforesaid. The auditor recommended hanging, if an executioner could be found; if not, shooting would do. In either event, the head and right hand of the woman were to be spitted in the most public place in Santo Tomás, and those of the others in other suitable places.

The 10th of June, 1849, Agustin Mancilla y Gamboa writes from San Francisco Javier to his brother at San Diego complaining of the insecure condition of property, and the absence of any administering of justice. Among other outrages, he speaks of the robbery of the church of Santo Tomás and the sale of the articles to some men trading toward San Diego, and asks for their arrest. J. Ross Browne testifies that in 1866 the country was well governed, though

between the years 1851 and 1861 the Peninsula was infested with runaway rascals from Mexico and California, many of whom had to be shot as a warning. And notwithstanding the frequent revolutions, Browne asserts that Lower California is a peaceful country, and that robbery and murder are infrequent.

Here, as elsewhere under Mexican rule, the custom was prevalent of advancing supplies to miners; that is, of paying them, usually in merchandise at exorbitant prices, for some time in advance, trusting to the hold law and custom gave upon the person of such debtors to get back their expenditure, with a profit, in the services of those thus bound to them. A mining superintendent near Santo Tomás in January, 1858, having distributed the weekly rations as usual, found one morning that advantage had been taken of the circumstance by two miners, who had decamped during the night, amply supplied with food. As soon as the discovery was made, the superintendent sent an American to the alcalde at Santo Tomás to obtain an order for the arrest of the fugitives. It was furnished at once, commissioning the Americans to bring them back living or dead. The alcalde also sent three Mexicans with him to assist in the execution of his order. They were successful in the pursuit, returning to the alcalde before dusk with the prisoners, who, declaring themselves innocent of the charge, were not confined in the calaboose. The next morning the alcalde went to the mines, ordering the prisoners to follow in about half an hour. Trusting to their honor, they were allowed to come without a guard. Upon the opening of the court, the superintendent of the mines appeared as prosecuting attorney. Testimony was heard from all the witnesses without any administering of oath. The court, unwilling to take the responsibility of deciding the case, proposed that the plaintiff and defendants should choose *hombres buenos*, and that the case be adjourned until the next day, which was done. The hombres buenos are pecu-

liar to Mexican judicature, differing from associate judges, arbitrators, or jurymen, but approximating toward all these. Upon the presentation of the testimony to this tribunal they decided to act on the suggestion of the superintendent, and condemned the prisoners to work out the value of the rations with which they had absconded, and to pay the costs of court.

The execution of some twelve criminals by law in 1860, murderers of Governor Castro and others, within a period of five months, brought upon Esparza, the governor, a swarm of vermin friends of the executed, threatening his life and that of all those having any hand in the executions.

When Dávalos was governor of Lower California, in 1873, wishing to increase his revenue while giving gratification to his people, he permitted during the Christmas holidays a three days' indulgence in the favorite but interdicted game of monte. The fourth day, desirous of seeing in person how his order for the discontinuance of the amusement had been obeyed, he entered a saloon in company with an officer, and each drawing a pistol, more in play than in earnest, pointed the weapons at a party seated at a monte table, and ordered their surrender. Unfortunately the governor's pistol was accidentally discharged, killing an old and respected citizen of La Trinchera, Don José María Mendoza, a looker-on. After which the governor, fearing assassination at the hands of the younger members of the Mendoza family, dared not venture abroad save under cover of a body guard of ten men.

In November, 1875, small squads of Sonoran banditti camped in Lower California just south of the line. The Americans on the San Diego side of the line did not regard their presence so near their families with favor, and so they drove them away. The 30th of this month two men, Leclaire and Sosa, were killed, as was supposed, by Lopez' gang. An alcalde

of Lower California united with the sheriff of San Diego to arrest and bring the offenders to justice.

Until a comparatively recent period, Arizona, in common with northern Mexico, was in the hands of the savages. Wide ranges of country were not inhabited by white men; and to pass through the country, unless prepared for battle, was attended with great danger. There were sections rich in precious metals, but to develop them was impossible. The arid soil offered few attractions for agriculturists; vast uninhabitable deserts isolated settlers on the fertile spots, and afforded secure retreat for marauding aboriginals. These same deserts, however, were not favorable to civilized ruffians; there were too few hiding-places, and if not soon run down and captured, hunger or thirst would drive the flying criminal back upon his avengers. Nevertheless in due time civilization developed some first-class scoundrels, who met their dues at the hands of the popular tribunal.

Before the establishment of the Mexican republic justice in New Mexico issued directly or indirectly from the civil or military comandante. There were minor courts for petty causes, but important cases were decided for the most part by the governor. Affairs were still worse after the organization of the federal government at the city of Mexico. The only tribunal then in New Mexico was the alcalde's court. Under certain restrictions appeals were carried to the supreme court at Chihuahua, but few could afford the delay and expense. The routine of law courts was unknown, and the distance to the audiencia of Mexico was so great as to impede the adjustment of rights.

The forms of litigation in New Mexico were quite simple. The complainant appeared in person and made a verbal statement before the alcalde, who ordered him to summon the accused, which was done by using the words, 'Le llama el alcalde,' the plain-

tiff thus acting as complainant and constable. The defendant failing to appear in answer to the verbal summons of the plaintiff, the alcalde caused to eb served on him the regular process of the court, which was a large cane, called the *baston de justicia*, an ordinary walking-stick, having sometimes cut upon it a cross, but distinguished from a common cane chiefly by a black silk tassel peculiar to this stick of justice. Both litigants being present, each gave his own version of the case. Sometimes witnesses were summoned and sworn on the cross cut on the baston de justicia. Oftener, however, a cross formed by the finger and thumb was used in administering oaths. It was a lazy, lying sort of justice. Very frequently there would be neither witness nor oath in the case, which indeed was often just as well. The alcalde would hear and determine. It was all law, and the magistrate was far above fallible man. Trial by jury was not practised, but in place of juries there were the hombres buenos before mentioned, to whom cases were often referred for decision.

In judicial proceedings, little attention was paid to codes or forms. Indeed, alcaldes learned in the law were extremely rare, many of them never in their lives having looked between the covers of a law-book. Their proceedings when not warped by corruption were controlled by the prevailing customs of the country. Justice was administered under three distinct and privileged jurisdictions, known as *fueros:* First, the *eclesiástico*, which ordained that no member of the clergy above the rank of curate should be arraigned before a civil tribunal, but should be tried by the superiors of his order; second, the *militar*, which made similar provision in favor not only of commissioned officers, but of common soldiers; third, the civil or ordinary courts for all cases in which the defendants were laymen. "These fueros," says Gregg, "have hitherto maintained the ecclesiastic and military classes in perfect independence of the civil

authorities. The civil, in fact, remains in some degree subordinate to the other two fueros; for it can under no circumstances have any jurisdiction whatever over them, while the lay plaintiff, in the privileged tribunals of these, may if unsuccessful, have judgment entered against him, a consequence that could never follow the suits of the ecclesiastical or military orders before the civil tribunals."

The decisions of the alcalde were seldom in strict accordance with the merits of the case, and bribery was frequent. Indeed, he who had not the money with which to bribe the alcalde was almost sure to lose his case. The injustice and corruption of courts of law constituted one of the most painful features of this demoralized society. In a judicial contest with the wealthy the poor stood little chance, for if judge and witnesses were not directly bought with money their influence carried sufficient weight to neutralize plebeian testimony if offered against them. A person of influence could keep a prisoner in the *calabozo* almost at pleasure; on the other hand without wealth or influence justice was beyond reach.

In New Mexico punishment was administered neither in proportion to the malignity of the offence, nor having prominently in view the vindication of outraged law, nor the reformation of the evil-doer. Should the creditor express a willingness to apply the services of a debtor on account of the judgment obtained, the debtor was not imprisoned; but from the low wages allowed it was easy, in most cases, for the creditor, by making further advances from time to time, to reduce the debtor to a state of peonage and hold him in bondage for life. For debt, theft, and murder, the customary sentence was the same, 'á la cárcel,' and the offender was likely to remain about as long through inability to pay an insignificant sum of money as for the gravest of crimes, always provided that nothing was forthcoming for purposes of bribery.

The mode of punishment was fine and imprison-

ment, which in a society so dull, given to such sensual gratifications as lay within their reach, was by no means the most awe-inspiring or effectual. Fine could not be exacted where the offender possessed nothing; and imprisonment implied shelter and food, comforts not always within the reach of all.

Bodily infliction, though open to the charge of brutality, is after all, in some form, the only punishment capable of holding crime in check. Some abhor whipping from the pain it brings, others from the disgrace attending it; all fear death. As for the relative brutality of corporal punishment and imprisonment, I think under analysis the sentiment would signify a caprice of fashion rather than a vital difference. To cage a human being like a wild beast, or to chastise him and give him his liberty, there is on this ground little choice.

In Utah religious fanaticism absorbed all sense of justice. To disobey the church was never so much as thought of among its followers. For any number of Mormons to assume attitudes antagonistic to their leaders, or to divine revelation, was scarcely deemed possible. The Mormon theocracy left no place for questioning; where God himself immediately governed, there, indeed, was law a sacred thing. There was little need of judicial mechanisms, court juggleries, forms, or furbelows. God's will was law; that will was made known by the mouth of his prophet; so that the voice of the church itself was law. Under such a régime, the little punishment little children required was easily administered, and the spirit of law and order brought these blind and ignorant worshippers to their knees, and held them there in breathless awe. Under a theocratic government, no less than under a strong despotic government, we shall look in vain for the popular tribunal. The necessity for such an organization could not exist, or if it did, the material composing it could not be found; for if such

principles obtained there would no longer be any theocracy. Utah cannot boast of a single respectable mob, if we exclude from such category, as certainly we must, troubles with natives and with gentiles.

In California the case was different. Unlike the tribes of Arizona, New Mexico, and northern Mexico, the natives of the great valley drained by the Sacramento and the San Joaquin were weak, defenceless, peaceable. The attention of the miners was not absorbed, their interests were not welded by fear of the savages. The poor creatures aboriginally inhabiting the Sierra Foothills were little disposed to retaliate the insults and outrages heaped upon them; should they now and then attempt to right a wrong, a hundred lives for one was regarded poor payment, and such impious justice soon swept them away.

Utah had much law and few people; California had many people and little law. I do not speak as to relative numbers, but as to the relative intelligence, force, and capabilities of the people. California was little cursed by superstition; probably there never were assembled from all nations a greater number whose minds were so enfranchised from the tyranny of ancient traditions, and whose thoughts were so free. In such a society we may confidently look both for evil-doers and for those possessed of will and strength enough to punish them. The true followers of the prophet could never do wrong; they were not endowed with wit, wisdom, and energy sufficient for the achievement of great wickedness. This, however, applies only to the earlier immigrants, whose minds were at first dazed under the illumination of the bright skies of Utah, being so suddenly transformed thither from the dark places of Europe and America. It cannot be truthfully said of the people of Utah that they were long non-progressive. Behold even now, as their vestments are becoming somewhat cleansed of the ditch-water of England and Germany by the pure springs of their American oasis, do they

not keep faithful vigil over what they deem the highest and holiest gifts that ever deity delivered to man? And is not their material improvement to some extent the outgrowth of their steadfast devotion to their religion?

In society and morals the early days of Nevada were a counterpart of the early days of California. As illustrative of the attitudes of law, when law with slow step and solemn demeanor drew nigh, and that popular sentiment which in border communities seizes so quickly the throat of a difficulty, there is told a story of one of Nevada's governors, who had pardoned a person whom the citizens had voted a rope, and had refused to pardon another who had shot his man, 'only in play like.' This did not at all suit the popular idea of propriety. So the people of Virginia, who by this time had acquired the name of the 'cussedest crowd in Christendom,' and who regarded it as not unreasonable to expect from their landlord every morning 'a dead man for breakfast,' came indignantly together to see what should be done. After discussing the matter potationally and at length without arriving at any satisfactory conclusion, one of their number arose, and without saying a word, cut from a new rope a piece several inches in length, and labelling it, "For his Excellency," despatched it to the governor. This was sufficient; the meeting adjourned satisfied.

For some time after the acquisition of the country from Mexico by the United States Government, under treaty of Guadalupe Hidalgo in 1848, Nevada formed part of the territory of Utah, from which it was separated by Act of Congress approved March 2, 1861. But as early as 1857 the inhabitants of Nevada had endeavored to sever their connection with Mormon rule. Delegates to Washington urged the establishing of a separate government. Meanwhile the discovery of silver at Virginia in the summer of 1869 brought in a large mixed class, rougher

and more reckless, if possible, than that composing the Californian Inferno.

A district judge appointed for Utah was assigned this portion of the territory, and began his duties in 1860, but confusion and insecurity were little lessened thereby. Finally, on the 31st day of October, 1864, Nevada was admitted as a state; but several years elapsed before efficient courts of justice succeeded in intimidating crime. Meanwhile the people were obliged to administer punishment in their own way or give the land over to desperadoes.

As early as 1848 a few families, mostly Mormons, settled in the valleys of Carson and Washoe. In answer to the mandate issued from Great Salt Lake in 1855 for the faithful everywhere who would escape the destruction shortly to fall upon the gentile world to gather beneath the many-wived shepherds' wings at the city of the Saints, sacrificing their homes, with alacrity they obeyed; after which time the character of the settlers of that portion of the territory changed. A more lawless class occupied the farms which the Mormons had cultivated, and the evil element was increased by the overland travel which dropped among them an occasional ruffian of the highest attainments.

The progress of settlement in the territory of Oregon was slow in comparison with that of almost all other portions of the west, but it was sure and permanent. The arts and usages of civilized society introduced by the Hudson's Bay Company and continued by the Northwest Company were simple and crude; and those of the agricultural settlers who succeeded the fur-hunters were but little better.

Far different from the hot-house development of California, Idaho, and Nevada was that of Oregon and Washington, if we except the comparatively small mining districts within these territories. While the former were rioting in their easily acquired wealth,

gambling, drinking, speculating, flinging their big bags of gold-dust hither and thither as if it was of all things the least valuable, the territories north were plowing their tough acres and plodding over their severe task of subjugating nature. Little foothold crime had there. There was nothing to steal. Cattle were not worth much; the ground could not be carried away; and houses were so far apart, and savages so bad, that the horse-thief would be more likely to starve than to get away safely with his plunder. So that during the time the mining states were suffering so severely from the inroads of crime, the agricultural states of the Pacific were almost wholly exempt. Nevertheless fitful spasms of arbitrary justice broke forth at intervals in the staid cold-water state.

Idaho belongs to what was once popularly called the Upper Country, aboriginally occupied by dusky races which first became known to Europeans through the adventurous trappers who penetrated those wilds. By the magic power of gold, discovered on the banks of the Pen d'Oreille River by a French Canadian in 1852; discovered in yet greater quantities at Oro Fino by a party of eleven men in the summer of 1860, this wilderness was opened to civilization.

Following the discovery of gold at Oro Fino, twenty-five persons wintered at that place, cut off from all intercourse with the world without. The spring of 1861 saw two individuals on their way to the new gold-fields, and emigration led to the finding of rich placer mines at Florence, on the tributaries of Salmon River, at Warren's Diggings, and elsewhere. By the 1st of January, 1863, twenty-five hundred men had found their way into Boise Basin, the largest and richest placer-mining region discovered up to this time outside of the limits of the valley of California. To the first town established in Boise Basin was given the elegant and euphonious name of Hog'em, afterward changed to Pioneer City. In Boise Basin are

likewise the towns of Centreville, Placerville, and Idaho City, at first called Bannock City. About thirty miles south-west from Idaho City, on the Boise River, is Boise City. In the southern part of the territory were the quartz and placer mines of Owyhee County, discovered in the spring of 1863 by a prospecting party from Boise Basin under one Gordan. In the Owyhee district were Silver City, Ruby City, and Boonville.

Up to the beginning of 1863, Idaho, as a territorial division of the United States, had no existence; but drawn by its newly found wealth to the attention of political aspirants by act of congress approved the 3d of March, 1863, the territory of Idaho was created from contiguous portions of Washington, Dakota, and Nebraska. It is a wild, mountainous region—the term Idaho signifies Gem of the Mountain—well fitted for wild, roving men, but rich enough withal in those metals that civilization covets to set wrangling and blood-letting a goodly number of the lovers of disorder.

As early as 1862 the people of Lewiston effected a regular and complete vigilance organization. Books were opened for the enrollment of the names of such as desired to become members of the association. The list rapidly swelled, and the Lewiston Vigilance Committee proved a most efficient institution for the punishment and suppression of outlawry. In other localities, also, the people found it necessary to organize for mutual protection almost as soon as they had come together.

Montana was once a part of Idaho, and nowhere were popular tribunals more necessary or their executions more numerous. Colorado, likewise, during the earlier development of her mineral resources performed anew the now stereotyped tragedies of the Pacific States.

But we must go to California if we would examine these extra-judicial phenomena in the freshness of their first appearing.

CHAPTER IV.

SIGNIFICATIONS OF STORM.

Cada uno es como dios le hizo, y aun peor muchas veces.
Don Quijote.

In the absence of that *vis vitæ* which crowds outward and onward progressive intelligence, there can be no great demonstrations of evil, except as it appears in the form of fanatical fermentations. A community too lazy or too stupid to improve breeds few skilled villains.

There is scarcely an instance on record where the Hispano-Californians, before the advent of foreigners, indulged in popular tribunals. The *hijos del país*, as a rule, were in favor of letting the law, as well as everything else, take its own course. Nevertheless, revolution was chronic here as elsewhere throughout the dominion of republican Mexico. Bad governors sent among them they resisted, and usually with success; but their political integrity vindicated, they left the administration of justice to legitimate authorities. Obedience to the laws was taught them as a religious duty; and as they were superstitious in their religion, so were they in their obedience to law. I find on record an incident that occurred at San Diego the 26th of March, 1833, which was a military movement rather than a popular demonstration, though frequently the two terms were synonymous. Antonio Alipás, private of the presidial company of Loreto, was under arrest at the guard-house at San Diego, when, between six and seven o'clock in the evening,

Inocencio Arballo, corporal of the same company, with seven privates, all armed and mounted, rode up to the guard-house and demanded of the sergeant commanding the delivery of Alipás. The sergeant refusing, the soldiers forced the guard-house and took the prisoner with them.

From 1819 to 1846, that is to say during the entire period of Mexican domination under the republic, there were but six murders among the whites in all California. As in the golden reign of England's good King Alfred, a log cabin could hold all the criminals in the country. There were then no jails, no juries, no sheriffs, law processes, or courts; conscience and public opinion were law, and justice held an evenly balanced scale. During the seven years succeeding 1850 there were in Los Angeles county alone some fifty murders, without taking Indians into the account. What was the cause of it? The native Californians were most of all horrified at the change, and yet the native Californians, with the assistance and under the tutorage of their brethren of Sonora and other parts of northern Mexico, did most of the robbing and murdering. They were horrified that society had so changed, not thinking that they had changed. The advent of foreigners, some of whom were evil-minded, was the signal for a new departure. The Californians were excellent horsemen; they knew all the retreats and passes of the mountains; throughout the entire region the settlers were their relatives and friends, who spoke their language. Many of the Americans treated them badly; retaliation was natural and escape easy. Such is the origin of the matter.

From original documents in my possession I take the following account of the doings of what may safely be called the first committee of vigilance in California. It is, moreover, the only instance of summary illegal proceedings in this territory under Mexican rule; and this, I might say, was almost wholly an affair of the *estrangeros*.

To certain foreigners present at the time, Temple, Prudon, and others, rather than to the Hispano-Californians themselves, this tribunal and its calm and orderly carriage was due. Left to the superstitious worshippers of church and state, the popular demonstration had not been; or if it had occurred, it would have been attended by gross excesses, such being the character of blindness and bigotry—cowardice first, then insane savagery.

On the 28th of March, 1837, Domingo Féliz, a poor ranchero, but a man of good repute, while on his way from Los Angeles to his rancho, and accompanied by his wife, María del Rosario Villa, was attacked and slain by Gervasio Alipás, a man of notoriously bad character, aided and abetted by the woman. For some two years previous to this time the murderer had been living in shamelessly open adultery with the woman, and only the day before the murder had her husband, invoking the aid of the alcalde, been able to separate her from her paramour, who swore to take speedy vengeance. A committee of citizens was sent by the alcalde to fetch the corpse. Horror and indignation took possession of all minds, and while for the murdered man the mercy of God was implored, exemplary punishment for his murderers was debated.

That night Alipás and the woman were securely lodged in jail. Some were desirous that the criminals should be immediately executed; but their ardor was restrained by the greater prudence of others, who reminded them that such proceedings could only be excused on the ground of necessity, and when carried out with coolness and in accordance with the rules and principles of strict justice.

The wisdom of these suggestions was acknowledged, and the threatened outbreak checked. On the 30th the funeral of Féliz took place, and the occasion gave rise to a renewal of the popular clamor. Nothing but the assassination was talked of, and the sentiment was fully approved that an example was necessary to

prevent the possible occurrence of similar crimes. But holy week was at hand, and it was thought it would be tantamount to sacrilege were the blood of so foul an assassin to stain the remembrance of that most solemn of tragedies. Therefore the first work-day after easter, which would be the 6th of April, was fixed on as that of the execution. A heavy storm which raged during the whole of that day made postponement necessary, but on the 7th, at an early hour, the most respectable men of all classes of the community assembled at the house of John Temple. A *Junta Defensora de la Seguridad Pública*, or Board of Public Security, was organized. Victor Prudon, by birth a Frenchman, but a naturalized citizen of Mexico, was chosen president. Manuel Arzaga, ex-secretary of the town council, was elected secretary, and a retired officer of the army, Francisco Araujo by name, appointed military commandant.

On taking the chair Prudon said that the aims of the junta were laudable and beneficial, just as well as necessary; that they had their origin in the great underlying principle of natural law, self-preservation; that even the government must acknowledge that this action was a necessary compliance with duty; while the result might be the establishment in the territory of what the people had earnestly and repeatedly asked for, a superior tribunal clothed with full powers to supplement thorough investigation by a final sentence in all grave cases of crime. He concluded by recommending order, the preservation of which was their chief end, since they were defenders, not offenders. Speeches were also made by the military commandant and others, and lengthy resolutions, embodying sentiments akin to the above, unanimously adopted. It was then determined that both the man and the woman should be shot. The junta was declared to be in permanent session until such time as the object which called it into being should be accomplished, and measures to that end

were after discussion unanimously concurred in. At two o'clock a sub-committee, with a copy of the resolutions, waited on the alcalde, who thereupon convened the town council. At three o'clock, no communication having been received from the alcalde, a message was sent by the junta to that official, notifying him that the time allowed for his action had elapsed, and informing him that the resolutions of the junta were about to be carried into effect. No answer was returned; but the second alcalde, accompanied by the treasurer and another member of the council, appeared before the junta and desired to be informed if that body recognized the legally constituted authorities, and if so, what might be the significance of this illegal assembly of armed men. The former question was answered in the affirmative, and the answer to the latter, the magistrate was informed, was contained in the resolutions which had been sent to the first alcalde.

At half-past three, by order of the junta, peaceable possession of the guard-room of the jail was taken. No answer had yet been received from the first alcalde, although he had sent a member of the council to invite the president of the junta to a conference, to which request answer was made to the effect that, apart from the junta, the president was not at liberty to enter into negotiations. At four o'clock both alcaldes made their appearance before the junta; a resolution of the council condemnatory of the proposed illegal action was read, and an attempt made to dissuade the junta from its purpose. Convinced that their efforts were useless, the authorities withdrew, after enjoining on those present the preservation of order, and receiving the assurance that all measures necessary to that end had been taken.

Repeated messages requesting his presence for spiritual purposes in this connection at Los Angeles had been sent to Father Cabot of San Fernando, but, although he promised so to do, he did not come.

The junta would wait no longer; the confession of the criminals must be dispensed with.

The military commandant was more compliant than the alcaldes; he caused arms to be given to the firing party, and gave orders necessary to the occasion. At half-past four the president of the junta ordered Alipás to be brought forth for execution. Already his irons had been filed so deeply that a single blow of the hammer released his hands. The man was then shot, and after him the woman. Thus solemnly was performed this first summary act of justice in California.

Mr John S. Hittell, as related in his *History of San Francisco*, was informed by Jacob P. Leese that early in 1836 one Verdugo applied to the alcalde of Los Angeles for an order to recover a deserted wife. The order was granted and the wife recovered. On the way to his rancho Verdugo was murdered by the wife and her paramour. The murderers were taken, tried, and executed by the people, the alcaldes, Manuel Requena and Abel Stearns, interposing no objections. Probably Mr Leese referred to the same affair the account of which I have just given.

Although gold was found by Marshall at the Coloma saw-mill in January, 1848, it was not until midsummer that the people of California would believe the discovery worthy their consideration. When fully alive to its importance they dropped their several occupations and set out for the Sierra Foothills. Everybody went. First the settlers and immigrants; fur-hunters turned to hunting gold, and the Mormons paid Mammon their respects for the moment. Then Benicia, Sonoma, San Francisco, San José, and Monterey were quickly depopulated. And as the tidings travelled southward, and bags of the worshipful dust were displayed to the gaping crowds, lines of diggers were formed from more distant places. Many of these persons were known to each other;

few of them were wholly unknown; most of them were respectable. They were not thieves, but honest men, who had come into this bright wilderness to dig for gold, and not to defraud their neighbors. Peaceably and in the primitive way each for himself picked the precious substance from river-beds and crevices, washed it from the sands that lined the streams, or sought a spot in which to dig for it, with no desire to encroach on ground chosen by another. Rights were respected; theft was unknown. A pick or shovel thrown upon the ground, sticks driven into the earth, or a written and posted notice to the effect that a certain spot was claimed, was sufficient to secure it against all comers. Miners lived much in the open air, in cloth tenements, or under bushes, or in rude huts, yet they left their gold-dust in bags or bottles unguarded in their tent or cabin. The merchandise of the trader was secured only by walls of cloth which might be opened with the greatest ease at night by means of a pocket-knife. Goods stacked up by the roadside, miles from any mining-camp, remained undisturbed for weeks or months. Horses and cattle were safe on ranchos or by the roadside. So in the towns which sprang suddenly into existence, the rights of property were respected, with no thought of penalties. After the winter rains had ceased and water for washing gold had disappeared, in certain localities piles of rich dirt were thrown up, like garden beds, to be washed out when rain should come again. Though often the result of great labor, and containing much wealth, these heaps lay undisturbed throughout the summer, and when autumn came fell to their rightful owners. Differences of opinion were settled by 'leaving it to the crowd.' The image of a patron saint was not more safe from desecration at the hand of its devotee than was the property of miners from robbery by brother miners. "Men have frequently about their persons thousands of dollars' worth of this gold," writes General Mason in his official report,

"and it was to me a matter of surprise that so peaceful and quiet a state of things should continue to exist." And so it was the first comers found here less discord than existed anywhere else in Christendom. Would all men were honest; would that serpents had never crept into this Eden!

At the seaport vessels arrived faster than their cargoes could find accommodations on shore, and great quantities of merchandise of all kinds was discharged and piled up along the beach, all around Yerba Buena Cove, from Clark Point to Rincon Point. Much of this merchandise was valuable, and all of it wholly exposed. Yet all this time there was scarcely a lock on the door of any dwelling, store, or warehouse in the town of San Francisco. During this truly golden age of fair integrity it seemed never to occur to these honest folk that there were any in the world who wanted wrongfully to take from them their property. A resident assures me that there was but one case of theft at San Francisco prior to October, 1849. A Mexican stole some blankets from Pollard & Randall's yard, on Clay street, for which he was publicly whipped on the plaza.

Yet earlier than this San José struck a manly blow for legitimate justice. Thomas Fallon, in coming down from the mines to San José, carried twenty-five hundred dollars in gold-dust secreted about his person and seven ounces in his pockets. On the 22d of December, 1848, he camped near San José Mission with three Americans, whose appearance he thought suspicious. He talked with them in a confidential way and told them he had been very successful in mining; that he had started with considerable gold, but a few days before had sent a man forward with all his money to buy cattle. They traded horses, Fallon giving them six out of the seven ounces which they supposed to be all he had. The Americans proceeded on their way and overtook two Germans with eight thousand dollars, whom they

shot, killing one, the other, though wounded, escaping to San José. He reported his adventure, and search was at once made for the robbers, who were caught within a few days. They were taken to the alcalde's court, where one of them confessed numerous crimes, and said that Fallon saved his life by misleading them to the belief that in the horse-trade he had used all the money that he had left. They were all hanged on the plaza three days later, in January, 1849. From this time crime about San José increased, and executions there became numerous.

During the autumn of 1848 there were no such things along the Sierra Drainage as government, law, law-courts, statutes, constitutions, legislatures, judges, sheriffs, tax collectors, or other officers of the law. All were absolutely free; all were thrown upon their good behavior. And here appeared in its fullest application the sociological law of non-resistance in the absence of restraint. Coercion implies antiposition. It is when placed under lock and key that the strongest desire to escape is manifest. Confine the insane and they are frantic; unlock the doors and knock off their fetters, and nine tenths of those most unruly under restraint become tractable. Crime is lessened, not as punishment is severe, but as it is certain. French school-boys under a system of espionage become tricky, while English boys who are less governed behave better. Debts of honor are usually preferred to those the payment of which may be legally enforced. When gold was the currency of California and legal-tender at a discount, indebtedness to some extent was beyond the reach of law and the courts, and the instances were comparatively rare where an account was cancelled with the depreciated currency. The pencil memoranda of members of the stock board are as binding as their written, signed, and sealed obligation. In these earlier gold-hunting days strangers met as honest men, and a few hours' acquaintance often sufficed to establish confidence. In the absence of

written law the higher law of probity governed intercourse. Nevertheless, as it pleased the Almighty to make with the good men some few deserving the halter, it is meet these latter should have it with the least possible ceremony.

However all this may be, it so happened about this new society that with Law came Satan. Alcaldes' courts were continued in the larger towns after American occupation, and in the mines local justices and constables were chosen. But the diggers paid little heed to them. They were preoccupied and migratory; let the devil look to his own. Even the merchants of San Francisco seem never to have thought of bolts and bars, until one day James Neall fished up a lot of old locks shipped by a shrewd Englishman on board a vessel which brought to our shores a score or two of Australian convicts. When people began to lock their doors, thieves began to steal. Why were goods bolted in, they might ask, if they were not to be stolen; and what were locks for if not to be broken by thieves?

This coming of the rascals—I suppose it must be taken in common with everything else that is, as for the best. Their influence on California, on the character of the men who made society, was marked and perpetual. Good men are made stronger by the presence of bad men; else the kingdom of evil had been long since overthrown.

Criminals and convicts, as we have seen, were not the first to come. They were not among the most intelligent or enterprising of those who heard of the wonderful discovery, and hence were not the first to move. But in due time it dawned upon their minds that a gold-yielding wilderness without jail or gallows must be the very paradise of thieves. And as if premeditated villainy might be sanctified by numbers, with the multitudes of honest and order-loving men hither came in crowds from the purlieus of crime,

from convict colonies, human reptiles, emptying cities of their slum, and trailing their slimy course through our fair valleys and into the newly occupied cañons, ready to sacrifice the here and the hereafter, if need be, so they might, like Ethan Brand, achieve the unpardonable sin. In their simplicity the previous occupants of the Foothills might have asked with old Nestor, "Pray, friends, are you pirates?" But there was plenty of gold in the gulches to be had for the gathering. When it could be picked from crevices and river-beds, and washed from bars and banks, what inducement was there to steal it? All the same, the better-minded learned all too soon that there were those in the world who loved to steal, even when honesty better served their avarice. There was enticement in the thought, excitement in the effort, joy-tinglings attending success, and in case of failure—why the best of us have soon to make our final reckoning with time.

With the classic days of 1849 came new pilgrims, a thousand ship-loads of them, by sea and land. So that midsummer saw in the towns which had so suddenly assumed pretentious proportions, and in the long line of mining-camps which had risen like Jonah's gourd along the Sierra Drainage, hordes of eager men of every nation, color, and caste under heaven. There were honest men and knaves, pious men and blasphemers, learned and ignorant, refined and brutish, humane and merciless. Every trade and profession was represented—lawyers, doctors, and preachers; thieves, murderers, and gamblers; bakers, bar-keepers, and butchers; loafers, highwaymen, and prize-fighters; horse-jockeys, bankers, peddlers, grocers, and blacksmiths—a human mess which even Mercury would closely eye before pitching them into Charon's boat; these, made spicy by a sprinkle of female frailty, comprised the population. But by far the larger part were order-loving men of pronounced morals and integrity. Add to these those of passable inten-

tions and easy honesty, who never take what they cannot reach, nor indulge in drink stronger than strychnine whiskey, nor bet more than a dollar at monte on Sunday; who attend church when houses of ill-fame are closed, and whose word is as good as their bond because neither is worth anything—throw into the scale on the side of virtue this large purgatorial element of *soi-disant* good men, and the genuine first-class villains of the true metal and clear ring were comparatively few.

But these caused trouble enough. Landing at San Francisco, they usually first made the tour of the mines and there formed the acquaintance of other gentlemen of their profession, whose projects they were by this time quite ready to join. And in this new field of enterprise everything seemed to favor them. Besides congenial companionship, and the absence of strong government, the physical aspect of affairs was all that the most ambitious could desire. The nature of the wealth for which all were striving, golden; the constant moving from place to place of miners and traders, and the intermixtures of strangers, all tended to discourage inquiry, to facilitate the operations of outlaws, and allow them to move quickly from place to place without exciting suspicion. In particular, the lonely and exposed condition of the roads throughout California, and the large amounts of treasure constantly passing over them, offered alluring opportunities for highway robbery; and while these opportunities were not wholly neglected, yet I do not know that this crime has at any time prevailed to a greater extent here than in any other sparsely settled country. Stage-robbing as practised by the profession in California was rather a chivalrous occupation; the gentlemen of the road risked their lives for whatever happened to be in the express-box, and if no opposition was made they generally contented themselves with this, and neither robbed nor insulted the passengers.

Along these roads, during the heavy winter rains of 1849–50, were hundreds of mired wagons, laden with supplies for the miners. Such was the nature of the soil, so cracked with dryness in the summer and so spongy soft in winter, that in the absence of a beaten track a loaded wagon would sink to the hubs almost anywhere about the skirts of the Foot-hills.

Hence arose two causes stimulating crime; the mining-camps were short of provisions, and the supplies intended for them were left exposed as a tempting bait to the hungry and forlorn. Add to this that by reason of the extreme wetness of the season the streams were so swollen that miners were driven from their claims, so that thousands, 'dead-beat and broke,' as they would say, were obliged to take refuge in the towns and get through the winter as best they could. The epoch of crime in the interior may be said to date from this time, and to have originated in a great measure from these causes.

Sometimes in the spirit and with the grace of young bull-dogs, these adventurers of evil would begin their gambols immediately they came ashore; watching, for example, the landing of their captain, who had incurred their displeasure during the voyage, seizing and ducking and beating him, if indeed they did not kill him outright.

The English convicts from Australia, who from the spring of 1849 to the summer of 1852 were the worst element infesting the community, made their head-quarters in San Francisco, at the base of Telegraph Hill, near the foot of Broadway. On one side rose the hill, broken and rugged, throwing out spurs in various directions, and presenting in places to the rippling tide a lofty bluff on whose summit even the squatter had not yet ventured to perch his eyry; round the base and up the little ravines were huts and tents not much larger than kennels, and divers-fashioned dwellings

huddled or scattered indiscriminately among low cabarets, and dance and drinking houses.

The rendezvous of the thieves, in the heart of this district, was called Sydney Town. South-west of Sydney Town was Little Chile, and farther yet in the same direction China Town; the Hispano-Americans congregating about Dupont, Kearny, and Pacific streets, and the Chinese at the intersection of Sacramento and Dupont streets. Although Little Chile supplied the community some criminals, the Hispano-Americans were more a worthless and vagabond people than a vicious people. They were the early victims of evil-minded Americans and the men of Sydney. In Sydney Town during the day schemes were concocted to be worked out during the night. The meetings had their orators, and the pillaging parties their leaders. Singly or in pairs they would perambulate the unlighted and unwatched streets, robbing, demolishing, or murdering, as passion or fancy dictated. They had a way of enticing or forcing their victims to some eminence bordering the Bay, and thence hurling them to their death. The beach round the northern point of the peninsula was at one time little better than a golgotha, for the human bones washed up there by the tide or buried by the sand.

After the fire of May 4, 1851, more than ten thousand dollars' worth of stolen property was recovered from these dens. Such a conflagration to the thieves was like the finding of a carcass to vultures; from their cesspool of corruption they swarmed in to take advantage of the misfortune of others, to pluck the unfortunate of the few effects they had been able to save.

And at the country towns it was proportionately bad. These same malefactors, or others, would meet in some suburban tent and there conspire against the well-being of a society preoccupied, unorganized, and unprotected.

Upon the surface of society there did not all at

once appear the fermentation going on beneath. And when from the mass gas-bubbles were seen to rise, they were lightly regarded as the momentary caprice of harmless *quidnuncs*. Gradually however the saccharine substance in this element of society underwent change, and the alcohol and acid of open villainy was only too soon apparent.

If we except a few irregularities in various parts of the country, we may date the advent of violence in midsummer, 1849. The wonder is that it did not appear sooner; that the widely diverse and heterogeneous ingredients of this mixture did not sooner act on each other; that ignition and explosion did not more quickly follow.

CHAPTER V.

THE HOUNDS ASSOCIATION.

Prince Henry. Where shall we take a purse to-morrow, Jack?
Falstaff. Where thou wilt, lad; I'll make one; an I do not, call me villain and baffle me.
Prince Henry. I see a good amendment of life in thee; from praying to purse-taking.
Falstaff. Why, Hal, 'tis my vocation, Hal; 'tis no sin for a man to labour in his vocation.

King Henry IV.

EVERY problem of humanity is but a display of some new combination of those primary elements of human nature which, like the elementary principles governing matter and force, underlie all activities. Common salt will not crystallize on the same system as sulphate of soda; so units of human societies in their intermixtures behave differently according to character and combination. Yet man-particles, in their aggregations and evolutions, act no less under fixed laws than do matter-particles.

Not the least unaccountable of human phenomena is that manifestation of brute force which breeds tyranny. That men should love to beat, and batter, and bruise one another, not to secure some good, but in spite of those evils which such conduct is sure to bring upon them, is unaccountable, save as an elemental quality of the evil principle inherent in nature human. The propensity in man for killing is insane as compared with the same propensity in the brute. The latter could give a reason if it would; man has none. The reasoning faculties given him by which to guide his conduct in ultimate appeal he flings aside,

dehumanizes himself, and no matter how far advanced in holiness of living or in intellectual culture, he thrusts his fingers into the latest invented claws furnished him by science, and straightway falls to flesh-tearing on such a scale as puts to blush the efforts of the tiger and the bear.

The brute creation man kills for food and clothing—material comforts; his fellow man he kills for pride, for glory, for hate, for religion—ideal comforts. War is waged with equal fervor by savage and civilized, by heathen and Christian. It is an element alike of the most degraded passion and the most exalted piety. In mediæval times the attention of mankind was divided not unequally between the arts which cherish life and the arts which extinguish life. One's whole duty lay in preserving one's own life and in striving to take the life of one's neighbor. So long as these efforts were evenly balanced, and their necessity fell alike on all, no great progress could be made in the arts of war, or advancement in the arts of peace. Whensoever for a time peace reigned rejoicing, the arts of war were pluralized, so that with them if he would man could achieve a yet more substantial peace.

So it is with regard to the supremacy of justice. But mankind will not yet have unadulterated peace or justice. There is in every one of us an inquisitor. Where is the patriot who would not tyrannize if he could? Where is the zealous religionist who would not, possessing the power, and left to the impulses of his own fanaticism, make every man of his faith or creed? else he would for Christ's or Mahomet's sake nominally, though in truth for his own sake, kill him. Evolve man if you will from matter; that which distinguishes him from any lower form is this unanalyzable intermixture of deity and deviltry.

The memorable year of 1849 had not yet dawned when it was whispered that villainy was banding in California. Strange to say, its first appearance here

was in the habiliments of charity. That delectable troop, the regiment of New York volunteers, was made up to a great extent of the riffraff of eastern cities. Of no value at home, they were brought hither at public expense to fight Mexicans, or Californians; which being found unnecessary shortly after their arrival the company was disbanded. Having no occupation, and averse to labor, naturally many of them fell back on their old pastime of pilfering.

The opportunity, however, to season their rascality with a little sentiment was too good to be lost. Had they not shared as brothers the dangers of the deep? Were they not brave men, soldiers, heroes, though they had never fired a gun; and did not the country owe them a debt of gratitude which sanctified any villainy? So they organized themselves into a kind of benevolent association, a self-protection and relief society, and called themselves the 'Hounds,' which was a very appropriate name. They were likewise known as the 'Boys,' after the fashion of the New York Bowery, where many of them used formerly to sun themselves.

Criminal intent does not appear as a part of their original purpose; indeed, as the alcalde Leavenworth testifies, some of them had been employed by him to assist in carrying out the ends of justice. Previous to the forming of that acquaintance which led to villainous vows of friendship and fidelity, and nothing loth to wear for a time the garb of respectability, many of them at first engaged in various occupations, such as mining, blacksmithing, hotel and saloon keeping, but they were not long content to work for that which they fancied they could more easily steal. Indeed, one of their fundamental principles, practised before it was formulated, and the first and broadest plank in their platform, was that others should feed and clothe them. The workingmen of California, the honest and industrious, should furnish them shelter, with strong drink, tobacco, and other luxuries. In return for which support, did California desire the

interloping 'Greasers' annihilated, they "were the boys to do it." Or lacking such patronage they would exercise their club diplomacy somewhat on their own account. Like bulls infuriated over red, they had their mad color. Black was bad enough, but copper-hue they hated, whether in the form of Mexican, Chilean, or Chinaman. They were soon joined by the men of Sydney, who now began to appear upon the scene, and by low politicians from the eastern states, besides the newly arriving shoulder-strikers and deserters. Here was the scum of diverse foreign societies uniting amidst the ebullitions of our new society as naturally as impure particles unite upon the surface of boiling liquid.

Whatever may have been their intention originally, elements like these joined under such conditions could not long exist without evil results. Soon it was understood that lawlessness and crime were the primary purpose of the association, and by the spring of 1849 subordinate societies with a common grip and password were scattered throughout the entire mining district of California. Here was a great power for evil, with its fangs already at the throat of our infant community.

As might be expected, the Hounds directed their early attention to politics. It is by such as these that our country is in too great a measure governed. It is such as these that San Francisco to this day is forced to support and serve. It is such as these that too often are our rulers; we make them such, fools that we are.

The Hounds made their headquarters in a large tent, later known as Tammany Hall, standing where now Commercial street crosses Kearny. Such was their strength, that with unblushing impudence they would bring to this so public a place the spoils taken at night, and there eat, and drink, and sleep throughout the day, with none to make them afraid. There were other places where they used to congregate; the

City Hotel near by, and the Shades Saloon whose keeper's name was Patterson. Their harem was the valley called the 'Hollow,' near, or forming part of the Chilean quarter; and the dusky nymphs there denizened by no means helped to quench the fires of hate already burning in the breasts alike of their countrymen and of their fairer-hued lovers.

Their time was chiefly divided between eating-houses, saloons, and clothing-stores, which were pillaged for corporeal necessities, and the huts of foreign emigrants, which were sacked and destroyed upon principle. Their attacks were confined chiefly to strangers, whose friendless condition forbade defence.

During the whole period of their administration it was the custom of these *chevaliers d'industrie* to parade the streets on Sunday in fantastical attire, but until toward the latter part of their term, if we omit occasional fights and street brawls, no open outrages were committed, though private thefts, and even darker deeds, were frequent.

Besides their regular Sunday divertisement, in which they affected a sort of military discipline, marching with flying colors, their leaders in military uniforms, to the music of fife and drum, they sometimes improvised pranks and antics for the amusement of the public. For a time, as I have intimated, the actuating motive seems to have been a silly love of display rather than open violence. Vanity, however, often leads to villainy. Said Sheridan once to Lord Holland: "They talk of avarice, lust, ambition, as great passions. It is a mistake; they are little passions. Vanity is the great commanding passion of all. It is this that produces the most grand and heroic deeds, or impels to the most dreadful crimes."

In the evening after their public gambols it was usual for the Hounds to scatter about the little metropolis and throw out gentle hints, or more peremptory demands, for whatever they happened to want. Like the tiger's whelp which chases the sheep at first only

for the sport of seeing them run, but once tasting blood becomes ravenous for more, so these young human Hounds began their play upon the people, scarcely knowing what they did, but coming to grief full quickly enough, however, as they thought. For, growing more and more boisterous in their displays, with increasing numbers, they began, toward the end of their career, first to intimidate, then to assault, and finally they did not scruple to try open robbery and murder.

Under some ridiculous plea they would sally forth from their tented Tammany, and with threats of violence extort money or goods from whomsoever they thought prudent to attack. They would invade saloons and call for drink, enter restaurants and hotels, and rudely demand food, after receiving which they would walk away without offering pay. On one occasion they fed from the tables of Jules Rousson, keeper of the United States restaurant, and gave in payment an order on the alcalde, which the latter refused to pay. At another time they broke down Rousson's doors and helped themselves to food. Stores they would enter, and selecting such goods as they fancied, carry them away, or help themselves to whatever they required from exposed piles of merchandise; and so strong had they now become that no one durst say them nay.

Though their outrages were directed chiefly against foreigners, they did not hesitate to attack Americans if offended by them. Indeed they became quite enterprising at last, even philosophic, and seemed to think with Socrates that there is something in this world nobler than mere ease and personal safety.

A gentleman informs me that as he was passing the Parker House one day, he saw a negro entering the office, and a lieutenant of the Hounds just behind him. The negro turned and accidentally touched the rowdy with his elbow, when the fiery young knight

whipped out his bowie-knife and cut off the black man's ear.

One morning two gentlemen entered the coffee-rooms of an old Frenchman, situated on Kearny street, opposite the plaza, on the site since occupied by the Jenny Lind theatre and the old city hall, and called for breakfast. Presently in came thirty-five or forty of the foul fraternity, hungry as cormorants, and ordered food. Pounding the table, they called loud and constantly, "waiter!" "waiter!" hurrying the poor garçon hither and thither until he was half dead with fatigue and fright. Meanwhile the two gentlemen could get nothing to eat. At length the craving of the rabble company being satiated, their leaders rose, and stepping up to the counter, turned their backs to it, and called out: "Fall in! Right about face!" Then turning to the restaurateur, one of them demanded:

"How much is to pay?"

"Two dollars each," was the reply.

"Charge it to the Hounds," he said. "Left face! Forward, march!" and out of the door they went, never paying a dime for what they had eaten.

Isaac Bluxome landed in San Francisco from the bark *Madonna* early in July, 1849. He brought out with him the frame of a wooden building which he set up in Sacramento street, between Montgomery and Sansome, being the third house erected in that street. Scarcely had he opened business when he was brought face to face with that phase of crime of which he was so soon to be the scavenger. A queer-looking customer entered one day and began to price his goods. He was little more than a boy, rather below medium height, slightly built, with a pale, sinister face, and dressed in a red woolen shirt, buff pantaloons tucked inside his boot-tops, a well-mashed slouched hat, and hanging at a leather belt a pistol and a butcher-knife. Picking up a plug of tobacco, he said:

"What do you ask for this?"

"Two dollars," said Bluxome.

"That is too much; you must not charge so much."

"That is my price; you can take it or leave it."

"Do you know who I am?"

"No, and I don't care who you are."

"I am captain of the Hounds."

"The devil you are," answered Bluxome. "Well, you look like a hound."

The fellow did not like Bluxome or his words, and after eyeing him for a moment he walked away without further remark.

There was little system in trade at that time, either in the kind of goods kept by the merchants or in the prices asked for them. Each dealt in whatever happened to fall into his hands, and asked whatever price he pleased, irrespective of that of his neighbors. Entering a tent store one day, where a great variety of merchandise lay exposed for sale, a quiet, modest, undemonstrative Hound picked up a pair of fancy patent-leather gaiters, which he thought would set off his somewhat small and well-shaped feet to the best possible advantage. They were wholly worthless, but little stronger than paper, cost probably in New York a dollar or two, but being brightly polished they had caught the gentleman's eye, and as business had been good of late he determined to indulge his vanity to that extent. Besides, his order was coming into notice more and more every day; parades were more frequent, and it was but meet he should make a becoming appearance.

Seating himself on a box he took off his shoes, and giving them a fling which sent them over behind some goods at the other side of the tent, he took up a pair of the glittering gaiters, drew them on his feet, and rising and putting his hand in his pocket, demanded: "How much?"

"An ounce," was the reply.

The dust was promptly paid down, and the nice young man walked away no less satisfied than the store-keeper. Next day returned his houndship. On

his calm features there was not visible the slightest shade of annoyance, ill-temper, or disgust. Threading his way quietly round the piles of merchandise stacked upon the floor, he fished out his old shoes, seated himself on the same box, drew from his feet the shining gaiters, now burst open in several places, put on his old shoes, and walked away without saying a word.

There was one way in which these Hounds were of service to society. I had come near unwittingly doing them an injustice. They were ever ready as jurors. He who had suffered wrong, and who, remembering the high privilege of an American citizen, sought the remedy, might here have trial by his peers. They were also good as witnesses, always ready faithfully to testify in whichsoever direction they were paid. They were good to drive off from lands squatters, or rightful owners; it made no difference to them in whom the title was vested. They were useful at the polls on election-day, voting early and often themselves, preventing others from voting, and at sunset guarding the ballot-box while it was being stuffed. If you wanted a house fired, a man beaten, or a murder done, they were always at hand to serve you for a consideration.

Nor were they without their worship and their benefactions. If the image of Mercury, the god of thieving craft and cunning, was not set up in their Tent of Tammany, none the less was his spirit there adored. Of all the world could give, this was the life they loved. Opportunity and environment were to them as sword and steed to the cavalier, or wine to the heavy of heart; their tent was the temple of their god, and their traffic better than winning souls. And it was wonderful their influence on the unanchored element then drifting on the flood-tide into this port. What do we see in crossing the Plains? The most stupid clod of a horse, half-starved and fagged with travel, when suddenly surrounded by a band of wild mustangs quickly becomes as unmanageable as they.

Even the culture of intellect is the result of absorbed vice, while the efforts of plodding virtue flow off like water from a smooth stone.

It is by no means certain that the advent of vice in this infantile form was not the best thing which could have happened to this young community at this time. California were not California had her battles with iniquity never been. Men who aim at respectability become so absorbed in their money-gettings as to be little better than machines, turning aside for nothing, for neither Christ, their country, nor the devil. It needs an enemy threatening their pet passion to unite them. They would form no brotherhood of virtue until driven to it by a brotherhood of vice.

Whence then the evil, these wicked ones might ask, and of what do you pious people complain? To make a world nature rushes from one extreme to another; from the extremes of heat to the extremes of cold; from an age of fire, of volcanic lava-formations and rivers of molten rock and skies of mineral smoke, to an age of snow, and ice, and cañon-carving glaciers. So it is with the formation and refining of human societies. It is the equalizing of extremes that brings one ever nearer to one's rest. Then why war with evil if it so befriend you? What is evil, oh ye saints of prudery and conventional creeds! Can you not see with all your stupidity and bigotry that evil is not a concrete entity, but only a measure denoting the absence of good, as cold is but the absence of heat? There is no such principle in humanity as abstract good aside from evil, any more than in a mass of molecules attraction can exist apart from repulsion. We are as necessary to you, prim fools, as you are to us. Every thing, every force, power, quality, principle, element, or idea has its antithesis, exists in duality, is twofold in its entity and action. Like the repulsive force in matter, this negative soul-principle acts among individuals, impregnating every germ, arranging into form the

molecules of society, shaping outlines and sharpening angles, pushing hither and thither, by impulses imperceptible, individuals and groups of individuals according to the great plan of our one and universal master.

The normal condition of humanity is a state of well-being, else there is a speedy end to all. But the mass needs leaven, else it is flat and unprofitable. The principle of evil dropped into it by an incomprehensible Almighty, the tendency of humanity is ever after toward an equilibrium. None but babes in intellect talk of an independent, self-existent power or principle antagonistic to omnipotence.

When we understand the nature of heat, then we can tell what cold is; when we comprehend the principle of good, we will be able to understand the phenomena of evil. Whatever good is, the tendency of everything is in that direction. What means otherwise the gradual disappearance of savagism, the progress of the intellect, of morality, of religion? Therefore if evil tends to disappear, and is surely century after century becoming less, we may safely conclude that with time it will be totally extinguished.

Now it is well known that there is no such possibility in nature, or in the imagination of man, as the total extinction of a concrete entity. If therefore evil is extinguishable as a concrete principle, it does not exist. Evil as an entity does not exist; good does. The world acts upon this principle, whether it is believed in or not.

What force underlies the underlying force that drives steamships and manufactories, the mainsprings of commerce? What is the chief stimulant of progress? Not love of knowledge, patriotism, philanthropy; all these are puny in their efforts at progress. What then are the mighty powers that move mankind? Avarice, vanity, the desire to kill your neighbor and keep yourself from being killed;

these are the god-like doings that bring to birth your boasted brotherhoods, your acts and industries, and which overspread the thorny path with coverlets of Christian charity. So might have reasoned these human Hounds in their Tent of Tammany.

CHAPTER VI.

THE SAN FRANCISCO SOCIETY OF REGULATORS.

> Lo, when two dogs are fighting in the streets,
> With a third dog one of the two dogs meets,
> With angry teeth he bites him to the bone,
> And this dog smarts for what that dog has done.
>
> *Fielding.*

With increased numbers and opportunities, the Hounds Association put on new dignities. Becoming somewhat ashamed of their canine appellation, they changed their name to that of the San Francisco Society of Regulators, and organized and officered their body after the usual respectable models.

Let it not be inferred from the name, however, that the Hounds had become guardians of the public weal, or that this was a popular tribunal proper, or a committee of vigilance. By no means. It was the good men and their affairs that this band proposed to regulate, and not the evil-minded and profligate. And to their assistance came now demagogues and aspiring politicians of greater bulk than their predecessors, and of more sweeping pretensions. With settled policy and defined purpose they would go forth conquering and to conquer. The one phenomenon was but the natural sequence of the other. The first association was the boyish play of vice, while the second walked boldly forth in the full manhood of concrete villainy.

Wickedness the Regulators saw was in the ascendant. No one appreciated better than themselves the fertile field of opportunity. Already the seed had

been sown by the young imps, who seemed to lack the ability to harvest the crop. It was for wiser heads to utilize their redundant resources, to give object and direction to their knavish proclivities. The general laxity of morals, the inefficiency and venality of law-courts, and the apparent indifference of the best men to the welfare of the state, all encouraged their aspirations.

That affairs needed regulating was clearly apparent to all; and the indifference manifested by business men as to how or by whom they should be regulated, emboldened the loafing element to assume that duty. The first fraternity was still to furnish the material. The municipal government had not hesitated to use the Hounds in order to secure the ends of justice; the Regulators now did not hesitate to use the same instrument to defeat the ends of justice. Thus against Justice, besmeared by evil companionship, were turned her ministers, who caught her in her own trap; as the wily wanton Vivien, knight-hater of King Arthur's court, seduced from Merlin his secret charm, and straightway Merlin, her first victim, lay in a hollow oak as dead.

To the benefits offered by the Hounds in associating, the Regulators added political favors or emoluments. Beside assuming knightly honors and setting themselves up to be redressers of public wrongs, whose mission it was to defend the national soil against encroachment, they proposed likewise to relieve Americans of the burdens of government, save only the little matter of taxation, which should not be severely felt, the people having their whole time at their disposal.

An initiation fee of ten dollars was paid on entering, and in return each member was to be cared for in case of sickness, supported when penniless, and extricated from any trouble which by chance he might fall into. No qualification as to character was requisite to membership, except that it should not be painfully

bright. The declared principles of the association were originally easy and free enough, and in action they became more so every day.

It was a model system of vagabondage, a Platonic republic for vagrants and blackguards, and might most truthfully have been named a Society for the Promotion of Vice, or a veritable Hell-fire Club. Half a day's work at that time would secure the initiatory ten dollars; or if that was too much trouble, the aspirant for membership might steal it. Once in, happiness was forever secured. *Bois tortu fait feu droit.* Protection, shelter, good-fellowship, and light scruples; what more could profligacy ask even in California? "It is all one to a stone," says Marcus Antonius, "whether it be thrown upward or downward."

There was little difficulty in their regulating elections, ordinances, and jurisprudence; population was not so permanent then as now; men were coming and going, hurrying hither and thither, few manifesting any interest in the welfare of the community, and those few scarcely distinguishable. The young metropolis was good for nothing but to be fleeced, and should any person object, they must be regulated. This so early political party in California was characteristic of the times. It was the pestilential quagmire of society; nor is the pool wholly translucent now.

For five or six months, namely, until the middle of July, 1849, this band of ruffians exercised their terrorisms over the community. Their ways were dark at first, and their councils secret. They were without organization for a time, but rapidly into evil eminence there rose from the ranks of this gang certain ruling spirits, with one Samuel Roberts as chief, who worked them up into a state of such efficiency that soon the entire city was laid under contribution. There is little doubt that many of their acts were countenanced by the alcalde, Leavenworth.

One of their number, Joseph T. Downey, asserts

that the origin of the organization was a physician's bill against one or two of the Hounds, amounting to some two hundred dollars. Having neither the money nor the inclination to pay, they determined to declare, among themselves at least, their position, which was that the public must support them. They would be public servants; they would pay no bills. It was necessary that they should have more money than the initiation fee yielded them. From rendering assistance to the alcalde and sheriff in their deplorable attempts at municipal government, the Regulators undertook to administer justice on their own account. Certain of their number had been called upon to inflict the punishment of whipping on a sailor sentenced by the alcalde for drawing a knife on his captain. Thereupon they undertook to whip by order of themselves. When the sheriff found it difficult or impossible to collect bills placed in his hands for that purpose by real-estate owners, merchants, and others, he recommended the claimants to give such accounts for collection to the Boys, who had a way of their own, swifter and surer than that of the alcalde, for the settlement of differences. From the seizing of property for the satisfaction of a debt to the seizing of property for the satisfaction of themselves was but a step, and unblushing imposition was the natural consequence.

Thus, like the giant Caligorant, justice was caught in its own net. Scarcely had the mines been opened, when a strong feeling sprang up against foreigners. Citizens of the United States deemed their rights superior to those of foreigners, who were allowed equally with themselves to gather gold and carry it from the country. The soil was theirs, they said; their brethren had fought for it and their government had paid for it. Up to this time there had been no outbreak, although the determination was daily becoming stronger and more universal to resist encroachment and expel foreign vagrants from the mines.

Against the mongrel class from Chile, Mexico, and the other Spanish-American states north and south of Panamá, this sentiment was most united, and so unsafe became the situation of these foreigners that during this summer the roads were full of them returning from the mines. And with them came many of their persecutors.

Upon this platform then the Society of Regulators was finally organized, with C. R. V. Lee as president; W. Anderson, vice-president; J. T. Downey, secretary; J. A. Patterson, treasurer; and J. C. Pullis, steward. The aforesaid Samuel Roberts was chief rioter and master of the military. California should feed and clothe them, and pay them well for their outrages. They proposed to live. They would assist at any time the impotent authorities, if the authorities wished their aid and would pay them; and they would just as readily break the law, and defy the authorities, if such a course best suited their purpose. With the coolest impudence they asserted their determination to protect American citizens against Spanish-speaking foreigners, and sometimes claimed to have instructions from the alcalde to extirpate the Mexicans and Chileans.

Thus things stood when, on the night of Sunday, the 15th of this same July, occurred an affair which brought matters to a crisis. It appears that one George Frank, a merchant, held a claim of five hundred dollars, for certain commissions attending the purchase of a lot on Montgomery street, against a Chilean named Pedro Cueto, who refused to recognize the obligation or pay the amount. Frank gave the bill to the sheriff for collection. Cueto told the sheriff he would not pay it, and the sheriff reported to Frank.

Now it so happened that the sheriff was none other than J. C. Pullis, who was likewise steward of the Regulator Society. This was the worst feature in the case, and shows how interwoven were crime and

punishment, when an officer of the law and an officer of the lawless were one and the same person.

"If you will get the Boys to assist you," said Frank to the hound-sheriff, Pullis, "I will give you half the amount collected." Accordingly the bill was handed to Roberts, who, pretending to have been sent by the alcalde, called on Cueto and quietly informed him that unless he came down handsomely, say with three or four hundred dollars, he would speedily be upon him with forty men. Cueto declining to pay, the Regulators proceeded to the avenging of justice after their own fashion.

And here I can but call attention once more to the singular state of law and administration which allowed an officer of the law to deputize a notorious band of desperadoes for the lawless enforcement of an unproven claim. Of a truth it would be difficult to say which had reached the lowest depth, law or villainy!

On the Sunday afternoon mentioned, at about one o'clock, the Regulators paraded in full force, with drum, fife, and banner, and epauletted officers. There were about one hundred of them. They were just returned from a marauding excursion to Contra Costa, and they determined to finish the day with deeds long to be remembered. So swollen by hatred and excitement had become the purpose of the Hound dictators, that the matter of Frank's bill was almost lost sight of. Their intention now was none other than to drive all Spanish-Americans from the city as they were being driven from the mines, and the final blow was to be struck that afternoon or evening.

Sam Roberts commanded; and it was noticed that he was more than usually grave in his demeanor, and concerned as to the condition and movements of his men. Supper was taken at a restaurant, where an eye-witness says that Sam behaved badly; that from his former reserve he broke into angry impatience, and to give more forcible expression to an order for a gin-

cocktail appetizer, he kicked over a table and broke a few glasses.

The company then proceeded to get up steam for the grand assault. This was accomplished by entering various saloons and demanding drink and cigars; if not instantly and cheerfully produced, the rioters would go behind the bar, help themselves and their associates, then smash a few decanters and mirrors as a gentle admonition that politeness sits as gracefully on a saloon-keeper before society servants as on Belisarius begging an obolus. Sam's men would have it made simple to these knights of Bacchus that, in the absence of awe-inspiring *lex scripta*, there was nothing left but to fall back upon the *lex non scripta*, the unwritten or common law which underlies all law, the which failing there was yet the *lex talionis*, or law of retaliation, a practical illustration of which was now before them. Expediency should be their motto, as it is the motto of all who seek to do the public good. There is a time to pipe, and a time to dance; a time to promise, and a time to perform—except for politicians. The fear of God should ever be before the eyes of the people, and respect for rulers, though from necessity or expediency they are for the time being denominated Regulators. Fear God; but only God manifest in the flesh, not the holy spiritual God beyond the sky. *Tempori serviendum est.* Bow to the powers that be; bow to the sovereign Regulators of the people; bow to the devil if so be glorious exaltation shall follow. When personal ambition stalks abroad, let principle give place; Cicero must choose between Pompey and Cæsar.

There was yet another wrong which this night's work should right. In one of their marauding excursions some time previous, it happened that a Chileno had the hardihood to defend his property and family honor from brutal assaults, and in doing so had accidentally killed a bystander named Beatty, an American, though not a member of the band. To

seize, confiscate, and sell to the highest bidder the tent and effects of one who had dared to strike a blow in self-defence was not enough. The blood of their murdered countryman called from the ground for vengeance. This night should see his inquiet shade pacified.

Sam drank sparingly that day; the potations of his men he sought to regulate according to their several capabilities. The time having arrived, armed with pistols, knives, and clubs, and with patriotic enthusiasm and liquid fire, they filed off and marched rapidly down the street to the Chilean quarter. In answer to the question, "What are you going to do?" they unhesitatingly replied, "We are going to whip and drive out every damned Chileno in town."

Rousing with blasphemous yells and pistol-shots the peaceful inhabitants of this then somewhat remote vicinity, they attacked the unoffending foreigners as they crawled from their dwellings, struck them down, and beat them with clubs, stoned and kicked them while lying half senseless on the ground, and finally, drawing their pistols, they began a promiscuous shooting, which resulted in one killed and several wounded, not to mention those bruised with clubs and cut with knives. The tents were torn down, household effects and merchandise stolen or destroyed, and the women and children turned into the street. It was in truth a disgraceful scene; blood flowed freely, and the cries of the defenceless mingled with the oaths of the assailants. Several mounted horses and chased the Chilenos through the town and up Telegraph Hill, firing on them as they ran. The tent of Domingo Cruz, at Clark Point, remained unmolested until half past nine, when twenty of the gang entered it with drawn pistols and demanded drink. Then they fell to breaking bottles and beating the inmates, saying they had an order from the alcalde to destroy every Chilean tent in town. From the tent of Domingo Alegría, after wounding the inmates and destroying

such property as they could not carry away, they secured two thousand dollars in coin, and jewelry to the value of fifteen hundred dollars. Then they demolished the tent and departed. After the first grand assault the company split into detachments of about twenty men each. These would make raids in different directions, then retire to the plaza or thereabout, whence after a short respite they would sally forth again.

During the turmoil Sam was ubiquitous. While in the heat of the fray, battering heads and tearing tents most lustily, from a distant part of the field the cry was frequently heard: "Where are the Hounds?" "Where is Sam?" And the answer would come, "Here I am!" Then they would fall to with new vigor.

Thus during the whole afternoon and evening of that Sunday, and all through the night until the following morning, these desperadoes continued their unblushing villainies without any interference from officer or citizen, extending their operations to other parts of the city wherever a Chilean tent could be found. They made no attempt to cover their crimes; daylight and darkness were one to them. Indeed there was nothing to fear. The law was powerless; there was no police; the alcalde was quiescent; the sheriff was a member of the gang; and the merchants and mechanics of the town were either attending to their business, or enjoying a sacred rest, dreaming of dollars, and creeping all the earlier to their beds as the sounds of brawls and rioting fell upon their ear.

When the young metropolis awoke next morning and rubbed its eyes, a new light seemed to break in on its citizens. Their situation was unique; never had they seen such sights, or heard such words, or thought of such things as now dawned upon them. Were they indeed where no law was? What were these spawn of Hecate who in the name of protection committed pillage and murder? The white owl of the

north is well-nigh invisible in the snow; so it may approach its prey unseen. In the opaque congeries of character heaped round Yerba Buena Cove, how shall we distinguish the human qualities hidden beneath the orthodox woolen shirt and bushy beard? Many a whilom saint is now a sinner; many a whilom thief sleeps in our warehouses. The ways of humanity in its new combination are past finding out. Circe, the bright-haired daughter of the Sun, in her enchanted isle of Æaea amidst her fawning spell-softened wolves and lions, was not more treacherously lovely when with her wand she changed the companions of Ulysses into swine, than was audacious roguery, lapped by flush California, to the brainless adventurer. Whether vice is a disease or not, it is no less epidemic than small-pox or cholera; in this heterogeneous human mess, if we are to know our bedfellow, give us a new university with professors of the passions, doctors of intemperance, analysts of licentiousness, and curators of crime.

Young San Francisco was fairly aroused. Fear took hold on the money-makers, and indignation; they swore in their hearts that these things should not be. Monday morning bright and early saw them bent on a new business, which was nothing less than to regulate the Regulators. And they went about it with their characteristic energy. They had but little time to waste at that kind of thing; and after all a hundred Hounds were not many.

On the Monday following the Sunday's outrages, at the corner of Clay and Montgomery streets Samuel Brannan mounted a barrel and addressed the people. As the crowd increased and the streets became so filled with eager listeners that many could not get near the speaker, a motion was made to adjourn to the plaza, which was done. There Mr Brannan took his stand on the roof of the one-story building occupied by Mr Leavenworth, the alcalde—opposite the plaza on Clay street, in the rear of the City Hotel—and

there continued his speech. After he had finished Frank Ward addressed the meeting.

It was in very deed putting the law under their feet; this taking a stand upon the top of a court of justice, and crying to the community to purify the court and mete out justice irrespective of inefficient formulas. It was significant of the times, and of the people. That little tenement of legal fustian was scarcely a feather in the way of those who now grappled the evil which they proposed to cure. Frank Ward was a fearless little fellow, a perfect catamount of courage when aroused, and as pompous and ranting as king Cambyses. Brannan, too, at this time was full of courage and bravado. While he was speaking, he was informed that the Hounds were moving among their adherents, and threatening to burn his property.

The effect of this statement on the speaker was to make him denounce the thieves the stronger. Pale with anger and excitement he stood before them. They were a dangerous element; they deemed themselves invincible; in their opinion they were mightier than the law. They were now assailed from a new quarter, and their very existence depended on prompt action; so that it was dangerous to force them to the wall. Brannan, however, was thoroughly aroused. Certain voices of the rabble grew louder, and presently pistols appeared with demonstrations of shooting. Perceiving which, Sam hurled on them a torrent of his choicest invective, meanwhile baring his breast and daring them to fire.

The speaking finished, the people collected were formed into four companies of one hundred men each. Captain Spofford was appointed chief marshal; and of the companies Hall McAllister, Isaac Bluxome, Jr., A. J. Ellis, and F. J. Lippitt were chosen captains. Lots were then drawn by the captains to determine which company should first stand guard, the duty being to watch the city and hunt the Hounds. The

lot fell on Bluxome. Stationing detachments in various parts of the city, with ten men he proceeded to an adobe building, corner of Broadway and Powell streets, where he was informed Sam Roberts slept. Breaking in the door which did not open to his knock, he learned that Sam was not there, but that he had pitched his tent some way out on the Presidio road. Thither Bluxome proceeded, but the captain of the Hounds was not there. Others went in other directions. Roberts was hunted everywhere. Tammany Hall was likewise invaded; the nest broken up, and several of the gang taken prisoners.

Meanwhile a number of gentlemen visited the alcalde and requested that steps might be taken for the restoration and maintenance of public peace. Thereupon a proclamation was issued calling a meeting of the citizens at three o'clock that afternoon, at which time appeared upon the plaza the largest gathering California had yet seen. The people were profoundly moved. W. D. M. Howard was called to preside, and Victor J. Fourgeaud chosen secretary. At the close of loud and lengthy public discussion a subscription for the relief of the sufferers by the riot was opened at the Parker House. Two hundred and thirty citizens then enrolled their names for police service, and formed themselves into six companies for immediate action. The Regulators, watching these proceedings, now began to scatter, but before sunset seventeen of them were arrested and secured on board the United States ship *Warren*. Roberts, the redoubtable, found snugly stowed in the hold of the schooner *Mary* bound for Stockton, was arrested by Hall McAllister, and his comrade Curley was picked up at the Mission.

Another citizens' meeting was held at Portsmouth Square the same day, at which two associate judges, William M. Gwin, and James C. Ward, were chosen to assist the alcalde and share in the trial of the prisoners. Horace Hawes, Hall McAllister, and others were

appointed to act for the people, and P. Barry and Myron Norton for the accused. Twenty-four citizens met the day following as a grand jury, and the prisoners were regularly indicted and charged with conspiracy, riot, robbery, and deadly assault. Samuel Roberts and eighteen others were thus called upon to defend themselves.

The trial began on Wednesday, was conducted in the ordinary legal forms, and lasted until the following Monday. Witnesses were examined on both sides; and the evidence of deeds done in the light of open day, to the men who now had the management of affairs, did not seem difficult to obtain. Notwithstanding which Roberts proved his *alibi* as a matter of course; Peter Earl, a Parker House watchman, swore that he put Sam to bed Sunday night, and William Jackson knew him to have been in bed at the time. But it would not do; Sam was found guilty of every charge, and eight others of one or more counts of the indictment.

After the conviction of the captured Regulators the question arose how they should be punished. Some were for having them hanged, others for having them whipped upon the public plaza and banished, and others simply for having them banished and given to understand that if they ever returned they would be executed. Roberts was first sentenced to ten years in some penitentiary, wherever the territorial governor of California should direct, and the others were ordered punished by fines and imprisonment of various amounts and terms. The infliction of the several penalties being found impracticable, and the people having gone about their business, some of the prisoners were shipped away and the others discharged. The gang however was broken up, and crime for the moment checked. Many of the Regulators took their departure for the mines, some of whom there met the fate which they so richly deserved. The miners had a shorter path from mur-

der to the gallows than the San Francisco merchants had yet found.

This outrage of the Regulators was not an ordinary riot perpetrated in a moment of excitement, but a coolly planned conspiracy against a peaceable and peace-loving community. Under the existing laws of the United States, foreigners had the same rights in California as American citizens, and wantonly to injure them was in the highest degree criminal. Not that any special sympathy is due the class against whom their wrath was kindled. The Chileans and Peruvians who infested the towns and rifled the Foothills of their treasures were low enough in the scale of humanity; by instinct and association they were lazy, ignorant, and deceitful, and they seldom scrupled at any crime they might with certainty cover. With the lewd women brought hither by them, and who were little better than chattels, they lived on infamous earnings; their tents were dens of iniquity; and if the Hounds had extirpated them, and had then themselves been hanged for it, society would have been the gainer.

But these foreigners were human beings, and as such entitled to humane treatment at the hands of professedly humane men. The lower their estate, the less tamely fair-minded and honorable citizens would stand by and see them wantonly maltreated. That they were the scum of other societies and a curse to ours; that their touch was pollution and their presence moral disease, and that their absence would be a blessing, were perhaps among the reasons why the Society of Regulators enjoyed so lengthy an existence. But the persecution of a class was a very different matter from the punishment of criminals; the former was based on rank injustice, which would certainly recoil alike on innocent and guilty, and it must end. Right nobly did the people of San Francisco thus early vindicate their integrity and fair fame, rallying to the help of down-trodden justice.

In this, the foreshadowing of that determined sense of truth and equity, that pointed swiftness of action so characteristic of California committees of vigilance, the primary power of society seated itself on the bench beside limp and inept law, and grasping in one hand the criminal and in the other the constable, it swore perpetual divorce from public villainy.

CHAPTER VII.

THE ADVENT OF LAW.

Thou say'st an undisputed thing
In such a solemn way.
Oliver Wendell Holmes.

ALTHOUGH the American flag was hoisted by Captain Montgomery in the plaza of Yerba Buena the 9th of July, 1846, two days after it had been raised at Monterey by Commodore Sloat, it was not until after the cession of California by Mexico to the United States, about the time of the gold discovery, that much was said or thought about government. The thriving little hamlet that bordered the Cove, in January, 1847, dropped its modest name of Yerba Buena for the original and more pretentious one of San Francisco, made famous by the Mission, Presidio, and Bay. This town and the mission settlements southward boasted their alcalde or justice of the peace, and some of them an ayuntamiento or town council, while the country at large was held by a military governor, whose rule, however, amounted to little, even along the seaboard, and was felt scarcely at all by the scattered and erratic gold-hunters.

Says the first number of the *California Star*, published at Yerba Buena January 9, 1847:

"We hear the inquiry almost every hour during the day, 'What laws are we to be governed by?' We have invariably told those who put the question to us, 'If anybody asks you, tell them you don't know,' because we were unwilling to express an opinion in relation to the laws in force in this territory, knowing as we did that probably during the day the same persons would be told at the alcalde's office or elsewhere that 'no particular law is in force in

Yerba Buena, though there may be in other places in the territory, and that all suits are now decided according to the alcalde's notions of justice, without regard to law or the established rules governing courts of equity.' The written laws of the country can easily be obtained and published, and for the convenience of the people it ought to be done at once. The people are now in the situation of the subjects of the tyrant who had his laws written, but placed them so high that they could not be read by the people, consequently many ignorantly violated them, and lost their lives and property. Commodore Stockton having been clothed with power to organize a territorial government in California, his proclamation settles the law in this country for the present, and ought to be regarded as the paramount law by all our courts."

This rambling statement signifies little beyond the rambling conceptions which even an editor then entertained of the laws under which he lived. When he speaks of the existence of written laws, he must refer first to the laws of Spain and Mexico, and secondly to the laws of England and the United States, for he must surely have known that neither the alcalde of Yerba Buena, nor the whilom government at Monterey, nor Commodore Stockton, had any local laws fit for the regulation of present affairs in California. In a word, like the world in the beginning, law was without form and void.

Until the war should terminate, it was to be expected that the commandant of the military district would act as governor; and though his authority was vague and anomalous, it was cheerfully recognized by all except those whom it was intended to restrict or punish.

But military rule was utterly of no avail in preventing or punishing crime throughout the country. It could not even maintain its own integrity, or overtake deserters from its ranks. It could offer rewards for human heads; but lawlessness was not thus to be restrained. As well might the military governor of California expect by such means to win souls from purgatory as that his feeble proclamations would stay the wild orgy of the Inferno. The military and naval commandants recognized in the people a right, nay, enjoined it as a duty, to choose magistrates and pro-

vide themselves a government; but this was frequently coupled with a recommendation for delay until it could be ascertained whether congress had concluded or was about to conclude the long-looked for organization.

It will be remembered that when gold was first discovered Colonel Mason ruled at Monterey. In anticipation of the failure of congress to provide a government, a call was made for the people to come foward and discuss matters relative to their anomalous situation. By a treaty of peace the country had been ceded to the United States, and the president had recommended to congress the extension of the laws of the United States over the newly acquired domain, but that recommendation had not yet been acted on, and at the time of the gold discovery the people of California were without the court machinery necessary for the protection of their lives and property. Crime was on the increase; hordes were hurrying hither confusedly, which a well organized government with a perfect police system would find difficulty enough in restraining. What then would the ruffians not do if left to themselves, and what was to become of citizens and the country generally? The people of California could not account for this ill-timed neglect on the part of congress to provide them a government, until they found the black man at the bottom of it.

Meetings were held at San José the 11th of December, 1848, at San Francisco ten days later, and at Sacramento the 6th of January, 1849, to take into consideration the propriety of organizing a provisional government for the so-called territory of California. A day was fixed for the election of delegates to a convention for the adoption of a territorial or state constitution, which was to be submitted for ratification to the people and sent to congress for approval. Disagreements arising, however, proceedings were discontinued.

By the *California*, the first steamship to enter San

Francisco Bay, arrived General Persifer F. Smith the 28th of February, 1849, who immediately assumed command. He was succeeded the 13th of April following by General Riley. It was now time, the people thought, that civil law should be established in this territory. The time of war, during which alone the president possessed the constitutional right to govern a territory by the simple mandate of a military officer, was over, and a forcible, practical government was nowhere on earth more needed. While congress was disputing over the vexed question of slavery in the new territory, the people grew first impatient, then indignant.

So eager for office and its spoils were the polls manipulators that in January, 1849, there were in San Francisco no less than three town councils at one time. In the absence of state legislation or federal regard, it was sometimes difficult for the municipalities to tell who were the rulers if any such existed. The old council of 1848 held over on the ground that its term had not expired. Of those opposed to it, one clique affirmed that its time expired the 27th of December, 1848, and another the 15th of January, 1849, and they elected men who took their seats accordingly. A month later the citizens met and petitioned both of the newly elected councils to resign, which they did. A district legislative assembly and three justices of the peace were then elected. On the 4th of June General Riley issued a proclamation declaring the election of the district legislature illegal, and reinstating the ayuntamiento of 1848.

General Riley did what he could to soothe and smooth. He said that congress did not mean to neglect California, nor did the president then regard the territory as subject to military rule. The old Mexican law then recognized in California, he explained, in the absence of a properly appointed governor by the supreme government, vested authority in the military commander of the department, a secretary,

a territorial legislature, a superior court consisting of four judges, a prefect, sub-prefect, and judge of first instance for each district, and alcaldes and ayuntamientos for the towns. Many of these offices were now vacant, and he recommended that they should be filled by an election to be held the 1st day of August, 1849. He recommended, furthermore, the choosing of thirty-seven delegates to a constitutional convention from the ten districts into which the territory was divided for election purposes. Amidst a general apathy on the part of the voters the election was held as appointed, and the convention met at Monterey the 1st of September following.

In the absence of a state legislative body the alcalde and ayuntamiento of San Francisco claimed supreme authority in that district, and it was expected that all their legitimate acts would be sanctioned by the acting governor and confirmed by future legislation. The treasury being empty, the new municipal officers applied themselves to fill it.

The first money received was appropriated for the purchase of a dismantled brig, called the *Euphemia*, then lying in the Cove about where now is Front street. The object of this purchase was to convert the vessel into a prison, so that the town might have a place in which to confine its criminals. This was early in August; and the vessel was turned into a jail, which was then the only prison the town could boast. California desired admission at once into the federal union.

The 13th of November, a state constitution was adopted, and a governor, judges of the supreme court, and other state officers elected, and state and federal legislators chosen. Party politics in this state was first manifest at this election. The business of the alcalde of San Francisco increasing, a tribunal called the Court of First Instance was established early in December, with William B. Almond as judge. This court was held in an old school-house on the

plaza, and decided cases involving not less than one hundred dollars after a fashion of its own.

The first California legislature, surnamed the Legislature of a Thousand Drinks, met at San José one month after election and continued in session four months. General Riley immediately placed in the hands of the newly elected governor the territorial archives, and surrendered to him the administration of civil affairs. Though not yet a state, California was very sure, as she thought, soon to become one, and adopted measures accordingly. The legislature proceeded at once to business as if congress had already acted on her admission. A judiciary was established and all the offices required by the constitution were created. Foreigners who had not become naturalized citizens were required to pay a license before working the mines, a measure productive of more trouble than profit. The penalty of murder alone was death; and for sending or accepting a challenge to fight a duel there should be fine and imprisonment. The state was divided into counties; the incorporation of towns and cities was authorized, and to San Francisco was given a charter.

The first election of officers for the county of San Francisco took place on the 1st of April, 1850, when a sheriff, judge, recorder, surveyor, treasurer, and other officials were chosen. The manner of this election was characteristic of the times, and shows to what length candidates for office then went to secure their election. For the office of sheriff there were three candidates—J. Townes, whig; J. J. Bryant, democrat; and John C. Hays, independent. All were on an equality in having the title of 'colonel' prefixed to their names. Bryant kept a hotel and had money; Hays was a dashing Texas ranger and had friends; Townes had nothing and was early out of the contest. Immediately he was nominated Bryant decorated his tavern with flags, placed a band of music upon the balcony, served free lunches in the

saloon, and distributed drinks *ad infinitum*. This was continued daily with prospects of the most flattering success up to the day of election. There were enthusiastic meetings with eloquent speakers and fine parades, torch-light processions, illuminations, horses, carriages, transparencies, banners, and all the paraphernalia of the hustings. The people were as full of enthusiasm as the candidates; it being to them a matter of vital importance under which of these two gentlemen the city should be bled.

As the time drew nigh, the Hays party became despondent. The combined power of those mighty elements, money and rum, were beyond the puny efforts of man to combat. At the polls Bryant and his partisans were more than ever elated. The day was theirs beyond question. All was lost with Colonel Jack. But hold! What is this? What new deviltry has the Texan concocted? For suddenly amidst the excited throng that gathered in and around the plaza appeared a mounted horseman, in the character of a Texan ranger. The clean-limbed fiery steed was brilliant black and richly caparisoned; the rider sat erect, with uncovered head, and performed a succession of difficult feats with consummate grace and skill. The rabble crowded round in senseless admiration. Drums beat, trumpets sounded, and loud acclamations arose from the delighted multitude. The horse becoming excited, at length cleared himself from the crowd, and dashed down the street at full speed. This was enough. No better proof of the fitness of the candidate for high position and important trust was possible. What wonder that officers so elected, and by such electors, should look lightly on puritan principles and scrupulous justice as compared with well-filled pockets, champagne suppers, and happy harlotings! At the election ordered by Governor Riley the 1st of August, Horace Hawes had been chosen prefect. It was an office of his own creating, and the duties of the incumbent were subsequently

of his own defining. The duties of a prefect he declared were "to take care of public order and tranquillity; to publish and circulate, without delay, observe, enforce, and cause to be observed and enforced, the laws, throughout their respective districts; and for the execution of these duties they are clothed with certain powers, which are clearly specified and defined. They are particularly enjoined to attend to the subject of public instruction, and see that common schools be not wanting in any of the towns of their respective districts. They are also required to propose measures for the encouragement of agriculture, and all branches of industry, instruction, and public beneficence, and for the execution of new works of public utility and the repair of old ones. They constitute the ordinary channel of communication between the governor and the authorities of the district, and are to communicate all representations coming from the latter, accompanied with the necessary information."

There is but one remove, it is said, between a philosopher and a fool; and tall, gaunt Horace Hawes could play the one or the other, as occasion required. He was the most foolish philosopher and the most philosophic fool San Francisco has ever supported. His intellect was clear, his logic practical, his arguments conclusive, as the following incident testifies.

When Benjamin Burgoyne was town treasurer, Hawes presented for payment a bill which he had held for some time waiting the appearance of funds in the usually empty municipal money-box, and said: "Burgoyne, I want you to pay that bill." The money was counted out and the treasurer remarked: "Mr Hawes, will you please sign this voucher?" Hawes complied, and started off; but turning back, as if struck by a sudden thought, he exclaimed: "Burgoyne, let me see that paper." The treasurer handed him the bill and the voucher which he had signed, when Hawes thrust them into his pocket with

the money which he had received. Said Burgoyne, "That bill is mine." Straightening himself to his full height, and twisting his features into a terrible scowl, Hawes exclaimed: "I am prefect, sir, and *ex officio* custodian of all papers!"

I shall have occasion to mention the name of Mr Hawes again in this work; but I will say here, that notwithstanding his peculiarities, he was one of the best and purest legislators the country ever had.

California's admission into the Union, the 9th of September, 1850, was the occasion of great rejoicing in San Francisco and throughout the state. Indeed so elated were the members of the two boards of aldermen that they voted themselves each a beautiful gold medal as a present from the city of San Francisco.

Thus nominally the law spread its ægis over the communities of California. But there was no great benefit in it. The chief towns responded freely to gubernatorial calls, but little attention was paid by the lesser camps to the adoption of a constitution, the organization of law-courts, or the meeting of legislative assemblies. Little by little the garment of conventionality was thrown over these new communities, but it was ill-fitting, ill-adapted to those social abnormities which it was never made for, and hence was for the most part thrown aside as useless. Although the people were patriotic enough, none but the more worthless would deny their gold-gathering proclivities for the gratification of political honor. It was easy to find men to fill the higher offices of government, such as governor, judge, or receiver of public funds; there were plenty of men too lazy to work, and without sufficient wit to live upon, who for salary or perquisites would accept office, but intelligent honest men to fill the place of inferior functionaries at paltry salaries were not forthcoming. The pay of a member of congress was then but eight dollars a day, and a

California gold-digger would abandon in disdain a claim that did not yield him twice as much.

Long before good government and law-courts could be established there the Foothills were flooded by a gold-thirsty humanity. In the absence of good laws well administered the people of the mining districts were obliged to make laws for themselves. This they did in the simplest manner and with a view to the immediate attainment of justice. Thefts and murders were quickly followed by whipping or hanging. These crude self-constituted tribunals were soon the terror of evil-doers, who thereupon became aware that it was better to work and be honest than to steal and be hanged.

The community being thus purged of its criminals in the absence of law, law next becomes criminal and scourges the people through the medium of its ministers. Every member of society was amenable to the law except officers of the law and their friends. Plutarch tells us that "when Anacharsis heard what Solon was doing, he laughed at the folly of thinking that he could restrain the unjust proceedings and avarice of its citizens by written laws, which he said resembled in every way spiders' webs, and would, like them, catch and hold only the poor and weak, while the rich and powerful would easily break through them." After the trial and conviction of Socrates his judges turned to him, according to the custom at Athens, and told him he might bid for his life; so in these early San Francisco courts at almost any stage of proceedings the defendant might buy an acquittal with money. And here as in Rome, false accusations were sometimes made against good men, such as Pliny complained of in Regulus, who of all two-footed creatures was called the wickedest.

CHAPTER VIII.

CHARACTERISTICS OF CRIME IN CALIFORNIA.

> Ay, do despise me. I'm the prouder for it;
> I like to be despised.
>
> *Bickerstaff.*

Obviously the peculiarities of crime in California arose from the peculiarities of conditions. Bees make their cells cylindrical, but mechanical pressure gives them a hexagonal form. So it is with crime and criminals; the villain lays his plans smooth and round, but circumstances press them into other shapes.

Physicists tell us not only that molecules exist, but that every molecule has its individuality; and this whether atoms are born of and developed from pre-existing forms, whether matter is or is not self-existent and eternal, or whether matter may or may not be reduced to force alone. As different phases of matter in the body act chemically when brought together so as to produce different kinds of substance, so phases of mind, or constituent qualities, acting under the chemistry of human nature, yield their several moods and affections. There are two liquids which united become solid; there are two cold substances which united produce heat; there are two evils which make a good. There is nothing that crushes manhood and keeps mind debased like ancient forms and superstitions. It is among the conservative elements of state, church, and society that we find fashion dominating sound sense and good principles, that we find form more esteemed than godliness or sweet charity. And it is not necessary, in order to be sustained in

this antique mummery, to make of the creator a *deus ex machina*, who may by human expostulations sufficiently loud or logical be induced to interfere in the workings of the laws which he has made; so in order to be rid of the tyranny it is not necessary to deny the possibility of unexpected fortunate occurrences. There was other escape from this mental incubus in the year of grace 1849, which was to encamp among the Sierra Foothills.

In the melodrama now being played the scenes were dramatic beyond description. The actors and their parts were as varied as human nature and anomalous circumstance could produce. Comedy was tragic, and tragedy comic; on the same board in simultaneous declamation were hero, clown, and heavy villain, who with the plodding people as a prey presented a performance fascinating in the extreme.

Not that California was particularly bad; not that there was less good than evil abroad; not that San Francisco was worse than any other seaport city, or worse then than now. The times were fresher then, and the lately unfettered nature of the people was more pronounced; but for looseness of morals, political and social, for unprincipled cunning on all sides, unblushing rascality in high places, a lavish expenditure of money by the wealthy in order to demoralize law and defeat the ends of justice, commend me to the present time. The tyrannies of feudalism were tame as compared with the infamies of the political and industrial magnates of to-day; for, as Thucydides says, "it is more disgraceful for men in high office to improve their private fortune by specious fraud than by open violence. Might makes right in the one case; while in the other, man throws over his proceedings the cloak of despicable cunning."

In the earlier social fermentations, the wickedness innate in every community was more visibly apparent upon the surface. The men composing the community were for the most part, as I have before observed,

from the better walks of life, men of intelligence and fair training. Their instincts and their aspirations were as a rule noble. The peculiarity of their position lay chiefly in the fact that they were without law or government. They were not wild beasts or savages; therefore they needed rule. In the absence of indigenous institutions, in the heterogeneous character of this social compound, in the diversity of thought and customs, and in the varieties of opinion here mingled, if ever strong rule was needed it was over this conglomeration of civilized men living almost in a state of savagism.

In the absence of a ruler every man was his own despot; each did what was good in his own eyes. There were not even those social restraints so essential to good behavior, and which are indeed stronger than the strongest law. Hence it was that misbehavior was unblushingly open. It makes a vast difference to refined civilization, even to æsthetic religion, whether breaches of conventionalisms be hidden or open, whether the senator has seven mistresses in Washington, or the saint as many wives in Salt Lake City.

The superabundant wickedness of to-day we hide away, and affect not to see it. We pass laws against gambling, against prostitution, against all the more repulsive forms of vice, and then with pious prudery make the bare mention of such obnoxious evils profane to ears polite. Meanwhile, nursing our secret sins, lying in wait for opportunity of advantage over our neighbor, hardening our heart to the misfortunes of others, do we not, under cover of decency and respectability, indulge in all the lusts and passions which we so sanctimoniously condemn in open offenders? In society everywhere we see certain of the moderately wicked execrated, while others infinitely more wicked are lightly blamed. The forms that hide the hideousness of vice cover brutality, and put on the appearance of virtue. There is a drapery beneath which shame

will not creep. Neither religion, morality, nor law is the most powerful lever of our present social mechanics; make sin unfashionable if you would eradicate it. Break all the moral laws you please, but beware how you tread upon the toes of society. Do you wish to steal? Do it legally and successfully, as a railway or land monopolist, and you will be adulated in your ill-gotten wealth. There are more refined ways of killing than with knife or pistol; affection, character, ambition may be slain, leaving the skeleton of departed hopes to stalk the earth as in the pale moonlit streets of a ghostly city; and though such deeds be dastardly, society does not heed them so long as they are not ungenteel, or bunglingly done. Some may be governed more or less by an abstract sense of right, based on moral or religious ideals, but these form a small part of any community. Many more think their actions are regulated by some such sentiment when it is really not the fact.

Every age and nation has its individuality, has some leading form of virtue or rudimentary excellence, possessing which, in the eyes of society, the individual is virtuous and excellent, and lacking which he is anathematized. The standard of excellence may be at one time courage; at another, religion, birth, caste, learning, patriotism, and the like: each in its turn takes its place as the moral ideal. And this ideal is constantly undergoing change. For example, the virtues essential in Spain, four centuries ago, are not the essential virtues of christendom to-day. Then obedience was the superior charm of woman; now it is chastity. Then blind loyalty best became the good citizen; now there are men of good conduct and character who question the immutability of any one set of civil or ecclesiastical forms.

Similar forms in character may be generated from different causes. Thus one nation is conscientious and honest from habits inculcated by a life of labor

and deprivation; another from religious or superstitious motives. A long life of painful self-sacrifice or devotion to a cause may spring from a desire to please God, or from a desire to please one's self. But whatsoever its genesis, it is this moral ideal that gives concretion to society and force to form.

The law takes little cognizance of the relative goodness and badness of human nature. In its eyes a man is wholly good or wholly bad. It draws a line, and all who happen to be on one side are doomed to jails and penitentiaries, while those on the other side may go free. The greater part of the human family hover near this line. The good are not very good nor the bad very bad. The law shows little discernment in its separations. There are many on either side who rightly belong on the other. Often a little more villainy would save one from the gallows, and a little more benevolence would send many an uncondemned criminal thither.

Back from the line some distance we find the extremes. Take one each of these, place them side by side, the greatest saint and the greatest sinner; then compare and analyze. Many qualities we find common in both, such as patience, application, knowledge, skill, courage, self-denial, affection, and a hundred more. The difference in their natures may be very slight, so slight, indeed, that a pennyweight more or less of this prejudice or passion, or of that bent of intellect or strength of physique, was all that stood originally between the paths that later led to a prison and to a pulpit. As in nature, so in man, the product depends entirely on the mixture of elemental principles and the incidents generated therefrom by environment.

A life of crime *per se* is seldom chosen by the worst man. Crime is generally the result of ignorance or passion. The consequence is either not known or not considered. Aggregations of men may do that with impunity for which individuals so offending would

be severely punished. What is war but wholesale murder? How differs corporation from individual swindling? In early California personal surroundings were so different from any hitherto experienced that one found one's self in the midst of a thousand temptations. And yet California made very few men bad; most bad men were such before coming hither. Every one was here with an avowed object, the accumulation of wealth; hence the one who scraped together the most gold was the best man. This passion being of the baser sort, in the absence of those restraining influences usually attending individuals so far advanced in culture as these, their baser part appeared upon the surface, mingled with their better part in a degree unparalleled in the growth of communities. They would have money; morality was a different and comparatively insignificant matter. The power of wealth was all the respectability necessary. They would indulge their passions as they pleased, some in one way and some in another; and as long as a man paid his debts he was not open to serious censure. Thus in the association of these heroes of the golden calf, with the attendant elements of pugilistic chivalry and brute force, was seen what we might call a modern age of antique intermixtures, a combination of the golden age, the heroic age, and the stone age, with latter-day liberalized modifications.

Crime here had an individuality not less pronounced than the peculiarities of the people. In character and quality it partook of the nature of the times. Its origin was as often vanity and hot blood as it was cool, calculating cupidity. There was a chivalrous bearing and dash about it which to many was enticing. The danger of it was charming; the field for atrocious ambition was wide; murderers delighted in the magnitude of their achievements, notching the number of their victims on the hilt of knife or pistol. Theft was base, unworthy a true knave-errant. When

men did steal, it was in a sort of magnificent style, such as highway robbery, unearthing bags of buried gold-dust, or for revenge. There was glory even in failure; the captured criminal was for the time a hero, the observed of all. Men eyed him; women talked of him; editors wrote of him. Business was dropped, and whiskey drunk, and court-rooms were filled, and briefs written, all for him. Jails were opened for him and free accommodations furnished. He was the guest of the town. For him sheriffs bustled, juries sat, lawyers ranted, judges looked grave; and even if he was hanged there was something flattering in the punishment.

There was a subdued audacity in the fighting men of California. The blustering Englishman had not his counterpart here, nor the wild Irishman, nor the half-crazed Frenchman, nor the border ruffian of Kansas or Mississippi. There was much of the gentleman about them, in many much that was chivalrous. The true Californian desperado was a mild-mannered man, gentle in demeanor, not given to much drink, and though about to cut you in pieces, he greeted you with a smile of sardonic sweetness. As a rule he patronized the barber, sported a white shirt and neatly fitting and well polished French boots; and when carrying the honors of a fresh murder he sometimes indulged in kid gloves.

Swindling, the Lilliputians punished more severely than theft, because it was easier, they said, to protect their property from thieves than from cunning and unprincipled persons who perpetrated their villainies within the pale of law. In like manner the Californians punished theft more than murder, because men carried their lives about with them, and might defend them, but property left to itself was defenceless. The easy, open, self-reliant disposition of the people; their fondness for harsh words, though so often accompanied by gentle deeds, their hot blood and hatred for whatsoever in appearance was craven, the exposed

condition of men and money, the free use of strong drink, and the necessity felt of always going armed, were among the chief causes of bloody affrays; and when woman came, as ever in the history of the race, she was a new and fruitful source of deadly encounter.

Thus it was that crimes against the person were more general than crimes against property; and one cause of it may be traced to the grand opportunity for the evolution of avarice which was offered by gambling. In professional parlance, the dead-broke man could almost always, by borrowing, or working a little, raise a stake, and thus find gratification for that covetous greed which, without this opportunity and excitement, must lead to schemes of darkness.

Moreover, where every man was obliged to defend himself, and in a measure to right his own wrongs, greater license was allowed in the employment of deadly weapons. When rifles, revolvers, and bowie-knives were the fashion, when no one was supposed to be decently dressed without them, it were a little singular if one should never be allowed to use them. Hence it was that crimes of violence, the result of excited passion arising from strong drink, gambling, fancied wrong and insult, were more common and less severely punished than crimes displaying innate meanness. There was no necessity for stealing; food was plentiful and easily obtained, very little clothing was necessary, life in the open air was delightful, and work was honorable; on the face of earth there walked, in his opinion, no man more noble than the honest miner, even though his woollen shirt was never washed; and to strike a hearty, manly blow for whiskey or opinion's sake, even though somebody died in consequence, was quite different from the sneaking meanness of the Mexican cattle thief. On the other hand, those very causes which diminished theft increased personal violence. Freeness of life and manner, stimulating drinks, stimulating air, absence of social restrictions, all tended to the turning loose of passion, and to that

gratification of appetite which breeds licentiousness and blows. Hence it was that in the earlier stages of arbitrary justice the thief was hanged while the murderer was left to run at large.

In 1875 the carrying of deadly weapons without special permission was forbidden in San Francisco; since which time hundreds of applications for such permission have been made and granted. It has been questioned whether under this law the safety of the citizen or of the robber is the better secured. Men of nocturnal occupations, and those living in lonely suburbs, deemed it necessary to go 'heeled,' as hoodlums say; but the permits issued became so numerous as to include many whose intentions were assault rather than defence. Coercive laws, such as restrict the innocent action of responsible men; sumptuary laws, laws against intemperance and immorality, never will regenerate society. He who desires to do murder will not hesitate to break the lesser law against carrying weapons.

As in savagism ornament precedes dress, so in border communities deadly weapons precede the implements of legal justice. Everybody, during the Inferno, the disreputable and the respectable, deemed it a necessity to carry weapons. This shows how blinding is fashion. Because hung to every man's belt were glittering implements for the losing of human life, it was taken for granted that no life was safe without such implements. Surely the application of a little thought and common sense to the subject would have shown them that except in extraordinary cases, even in a community of rough fire-eaters, he who went unarmed was less liable to be attacked, less in danger of losing his life, than he who always went armed to the teeth for purposes of defence. Weapons invite violence. They are as bad playthings for men as for children. In California they were as dragons' teeth sowed broadcast along

the Foothills, which sprang up each to the other's destruction. Not less than ten millions of dollars of the precious metal taken from the mines of the Pacific States has gone to pay for guns, pistols, and knives with which the people might butcher each other, and without which all would have been better off.

Quarrels between the rascals themselves were promptly settled by bowie-knife or revolver. As a rule they died with their boots on, as they expressed it—that is to say, violent deaths; indeed they expected nothing less. Ancient belligerents, each having sworn to kill his enemy on sight, would stroll about the street with eyes and ears on the alert, with hand on pistol-hilt, and on coming together both would draw and fire as rapidly as possible, neither of them speaking a word. Duels were in order; of the one hundred fought in California about one third were fatal to one of the combatants. Although our law makes duelling a felony, no one has ever been properly punished for this offence; yet public opinion is against it, and a duel now is of rare occurrence. The quiet citizen the ruffian seldom molested, except in cases of robbery. At no time in the history of the country need any well-behaved man, minding his own business and avoiding drinking-saloons, have greatly feared for his life.

I have said that there were different degrees and methods of punishment. A warning to leave the camp, or town, or city, or country, was the mildest form; whipping was not unusual, but hanging was most common. In a country where all was turmoil and confusion, and where a liberated criminal would be as free as ever to commit new crimes in another camp or district, capital punishment seemed the only effectual cure. Suspected and disorderly persons were driven away.

Hanging was done in various ways—by shoving the criminal from the door of a loft while a rope suspended him by the neck to a beam above; by

running him up to the bough of a tree, a number of men having hold of the rope and sharing in the execution; by mounting him on a box or cask under a tree, and when all was ready knocking the support from under; by mounting the condemned on a horse or mule, tying his neck to the limb of a tree, and driving the animal out from under him. Sometimes one of the miners would be appointed executioner, at other times all would join in the unwelcome work.

A fourth punishment—hanging, exile, and whipping being the first three—was one no less effectual than novel. It was the custom of committees of vigilance when they had in their possession a bad character against whom there existed strong suspicion but not sufficient evidence for conviction, before setting at liberty such an one to cause his likeness to be taken, that all villain-hunters might thenceforth know him. The Chinook of the Columbia, in the enjoyment of his aboriginal phantasy, would sooner die than have his other or intrinsic self, or soul, transfixed in light and shade, or imprisoned on the canvas to be carried hence, stolen, and forever lost to him. So these worse than savages, who preyed upon their kind, would ofttimes have preferred corporal punishment, or exile, to the infliction of the daguerreotype.

There is more virtue in the lash for criminals than many suspect. Bound to the whipping-post, their backs bared to the sun, the performance which follows is not sentiment alone. Prisons the expert malefactor does not much fear. Even though doomed to disappointment, hope of escape never deserts him. But the whipping-post is an abomination, attended as it is with pain as well as disgrace.

Yet however overwhelmed a mining-camp may have been by cunning knaves and unprincipled miscreants, by desperadoes newly made, and the spawn and outcast of old societies; however crude the justice of these unfledged civilizations, and however passionate and insane the populace in the execution of a popular

verdict, mixed with the general mass there was always enough of leaven in the shape of inherent nobleness of character, love of right, and practical good sense in the maintenance of order and respectability, to save the place from final destruction. This element of respectability and a care for appearances was greatly strengthened by the presence of woman, when she came, as well as of churches, schools, lyceums, and piano-fortes; and while the quick-thinking and quick-acting people were sometimes overcome of impatience from laggard justice, officers of the law became more and more respected, and were less interfered with in the discharge of their duties.

Early in 1850 some few began to think of remaining permanently in the country, and accordingly sent for their families. But even later the great mass of the people intended only to secure a little fortune and then hasten from these wild, and to many detestable, shores. Some thought of a longer stay in connection with political preferment or professional advancement, but even these looked forward in the hope of a return eastward after a five or ten years' exile. Hence it was that men, even of cultivated abilities and mature character, who under other circumstances would have taken a lively interest in assisting to lay the foundation of the political and social institutions of the new commonwealth, were careless of the welfare of the country, and took little interest in society. Clustering round their heart-strings were the old home affections, and many were the high aspirations finally smothered in the hopes of return. They were good men, and respected the dignity of government and social order, but they did not come hither for personal distinction, or for any other purpose but fortune.

Where money was plenty and manners were free, for the popularity of the thing, those even who intended soon to leave the country forever might countenance propositions tending toward public good, and might aid

in the establishing of schools and churches, but the heart was not in it.

Overlooking since 1850 the upper side of Portsmouth Square, early San Francisco's historic centre, is the Monumental Engine House. Many and varied have been the doings witnessed from its windows, for in this plaza there used to congregate men of every color, of every phase of intellect, of every quality of aspiration. Thence have been seen crimes of every sort, and some displays of slow and of swift retributive justice. Assassinations the Monumental windows have seen, and riotings, robberies, and hangings; the tented foreigners in their low licentiousness, and the gaudy saloon, and blazing, music-sounding betting-shops; the grandest of early theatres, the Jenny Lind; the custom-house; the post-office, with its long line of anxious letter-seekers on the arrival of every steamer; these, beside mobs, elections, political displays, citizens' meetings, peddlers' cries, street preaching, and a thousand other enlivening scenes.

There were not many bells in California then, but the Monumentals had a bell on their engine-house when churches were obliged to do without. Fire was king, and could command what it would. There were other flames beside the flame of fire that often raged within hearing of this bell—flames of passion, and the blazing of those lusts which so often burn to cinders both body and soul. All the time these fires of hell were flaming in the bodies of men, who were constrained to fight them hourly or die. Men's passions were always ablaze; but when property was on fire the Monumentals struck their bell, and the alarmed citizens roused themselves from their beds to the rescue. It may not be out of place to mention here that the bell of the Monumentals was the official organ of the terrible tribunal of 1856, when first convened, and rang to their death those most able and gentlemanly scoundrels of the ballot-box stuffing epoch; yet it was not the first to sound the note of

warning to vice-ridden San Francisco. That honor belongs to the California Company's bell, which was sounded with a billet of wood by Mr Oakes, standing on the ground—which was hammered by that gentleman when he wished to rouse the people to the trial of Jenkins, in the summer of 1851. Later, the first tribunal employed the bells of both these companies.

Likewise was seen from the same windows of the Monumentals the chain-gang at work on the plaza and public streets—a novel spectacle in America—twenty or thirty hardened offenders, pallid through long confinement, clanking their chains to the movement of pick and barrow, and warning the novice in crime of the fruits of evil doing. In older societies such displays are rightly regarded as barbarous and debasing; but here some more public and severe punishment seemed necessary than the latest refined and philanthropic methods. It was not the money saved to the city, if indeed there was any such saving, but the moral effect that alone justified the measure.

The police court, or recorder's court, as it was called before the passage of the consolidation act, was the medium by which the moral ulcers of the city were opened. The prisoners there every morning arraigned were mostly foreigners, and interpreters of every civilized language under heaven were found necessary. And the religion of these scoundrels, and that of their friends, must be duly regarded, for the vilest and most ignorant are often the most religious. Herein was still greater diversity. Each witness was sworn by whatever peculiar sentiment of fear environment had placed his imagination under—the Chinaman, for example, by holding in his fingers a piece of burning yellow paper, symbolical of the burning of his soul should he fail to tell the truth. I regret that faithfulness enforces me to add that, notwithstanding this solemn invocation of spiritual fire which threatened to strew the path to paradise

with the ashes of his soul, John did sometimes most wickedly lie.

The first number of the San Francisco *Herald*, issued June 1, 1850, calls the attention of its readers to the open and persevering attempts at incendiarism, affirming that there was then an organized gang of ruffians devoting their time to the disturbance of the public peace, and to maturing plans of burning and robbing. Two or three attempts to fire the town were sometimes made in a single night. The gang was composed chiefly of Sydney convicts, and correspondence was carried on between the principal cities of the state. Great difficulty was experienced by the authorities in frustrating their schemes, reckless and desperate as they were, and practised in all the arts of villainy. A law was passed by the legislature to deter the coming of convicts, but up to this time it had not been enforced.

Courts of justice during those days were frequently assailed by the press, but they had their defenders. Writing December 13, 1850, the editor of the San Francisco *Evening Picayune* says: "We have not been indifferent, as we have shown on frequent occasions, to the unwarrantable and disgraceful attacks upon our courts, and upon those who preside over them, by one of our morning journals. We deprecated, at the earliest moment, the appearance of a seditious and disorganizing spirit, but were told that all the talk in which it indulged about the overthrow of the only defences of our rights and liberties was all nonsense, and we had concluded so to regard it. We have no fears for the stability of the tribunals which the people have created, and we have had no suspicions of any want of the purest integrity in the judges that sit in them. But we have looked with inconceivable displacency upon the license that has been assumed, both to control and traduce them. We are glad to see that our contemporaries have, some of them, given a strong and manly utterance to a just, but we fear useless, rebuke."

This tended only to stir up all the more order-loving citizens, who continued to curse the courts because they would not punish crime. At last the people of California were awake, wide awake.

If they were to remain here but a week they did not wish to be robbed or burned in the mean time. Then grumbling became chronic. Men complained to each other, and came together in mass meetings, and swore these things should not be. If crime had its characteristics, so had those determined to eradicate it. Knavery of all kinds was looked after—the owners of steamers, that they should not carry more passengers than the law allowed, no less than those who would cut throats or burn buildings. Speculators who caused flour to rise to twice or thrice its value were openly and manfully denounced. While in all this there was much talk, there was some action, as we shall see before the end of these volumes is reached.

In regard to the spasmodic course of crime, I do not know that it is more particularly so in California than elsewhere. I think not. But here at all events its character has been clearly apparent. For a time all would go on smoothly and quietly in the line of villainy; then suddenly there would appear a shooting mania or a house-breaking mania, or a mania for self-murder, and for a week or a month the columns of the daily journals would present a stirring calendar. Murder incites murder; blood begets blood. Like every wave of fashion, crime undulates in common directions. The force of example is no less strong in suicide than in silks; ninety-nine hundredths of all we do is done because we see others do so. Reading the reports of rascality, and the warnings against iniquity in moral reform books and journals, engenders a morbid immorality. When all books of a demoralizing tendency are burned, our Sunday-school libraries will be cleared of half their contents.

CHAPTER IX.

LAW AND DISORDER.

Gesetz ist mächtig, mächtiger die Noth.
Goethe.

With the rise of legislative assemblies, the adoption of a constitution, and the election of state and county officers, the administration of affairs in the more settled parts was taken from the hands of the merchants, mechanics, and miners, and placed under the direction of the several officers of the law and legal tribunals. Then the wicked took heart. Hitherto there had been an absence of those legal and political juggleries which primarily are devoted to defeating the ends of justice. Now might crime weave round itself the threads of law, as the larva spins the protecting cocoon. Most strange and paradoxical was it that the elevation of law should have subverted legal authority, and that the cultivation of morals should have so demoralized the community.

I say the establishing of courts tended to encourage crime rather than to prevent it. By manipulating primary elections, and managing the polls, unprincipled demagogues were placed upon the bench, and ruffians made court officers. The most notorious offenders, by giving straw bail, by producing two or three members of their fraternity to swear an *alibi*, or by unblushing bribery, were sure of acquittal or escape. In one year, for two hundred murders committed, there was but a single legal execution. Police officers connived with professional house-breakers and shared the spoil.

While it was easy to hang a thief, it was difficult

to convict of murder before the juries of the interior. There were so many excuses which those could allow who had themselves indulged in a little shooting, that, even when in the early part of 1854 juries began to convict, they generally softened before leaving their seats and sent in a recommendation to mercy.

Juries were summoned from the hangers-on about court-rooms, men fit for nothing else, scarcely able to live by their wits, and yet too lazy to work. Old familiar faces were they, blossoming under the genial influence of strong drink; old pensioners they seemed to regard themselves, as they did nothing but sit in the jury box, the same person sometimes serving several times in one day. Thus the courts had always at hand an acceptable, stereotyped jury of retired Peter Funks from the purlieus of Long Wharf, petty hucksters, perhaps, or sham bidders at Cheap John auction rooms.

Murderers were our congressmen, and shameless debauchees our senators. Our legislators were representatives of the sediment of society, and not of worthy citizens. An ex-governor of the state, John McDougal, was arrested for election frauds shortly after his return from the east, in September, 1856. Cowhiding affairs, in which a woman was either an actor or the cause, and politicians parties to it, were of common occurrence. Affrays between attorneys in court, in the name and under the nose of justice, and duels in which an editor, judge, or politician was sure to figure, were frequent.

"There is scarce an officer intrusted with the execution of our state government," writes the editor of the *Evening Picayune* as early as August, 1850, "scarce a legislator chosen to frame the laws under which our interests and the interests of those who are to come after us are to be regulated, scarce a judicial officer from the bench of the supreme court down to the clerk of a village justice of the peace, scarce a functionary belonging to the municipal administration

of our cities and incorporated towns, who has not entered upon his duties and responsibilities as the means of making money enough to carry him home. His devotion to the well-being and advancement of the community whose confidence he has sought and won is measured by the dollars and cents to be acquired by fidelity and industry in his place, rather than by any prospective regard to the influence which his official career may have upon the destinies of the community of which he has no intention to become permanently concerned."

From the criminal records of 1855 I find that in California five hundred and thirty-eight persons met their death by violence. Of these three hundred and seventy were white, one hundred and thirty-three were Indians, thirty-two Chinese, and three were negroes. The most inoffensive, it may be noticed, suffered the least. The record can scarcely be correct, however, as regards the aborigines, for hundreds of them were slain by the dominant race, the murders being never made known. During this same year forty-seven persons are said to have been executed by mobs, and nine by legal tribunals; ten were killed by sheriffs or police-officers, and six by collectors of foreign miners' licenses. Twelve perished in fights about mining claims, and eight over the gaming-table. Prior to 1855 homicide was at least as frequent. The district attorney of San Francisco asserts that during the years 1850–3 inclusive there were twelve hundred murders and only one legal criminal conviction. Though I do not vouch for the correctness of this statement, it was, to say the least, a terrible condition of things.

Helper in his *Land of Gold* makes a startling statement, which I give for what it is worth. He affirms the loss of life by violence in California during the years 1849 to 1854 inclusive to have been as follows: murders, 4200; suicides, 1200; insanity, 1700; wrecked, or the victims of disease on the voyage

hither by sea, 2200; perished, or killed by Indians on the overland route, 1600; perished in the mines, and in prospecting for gold, for lack of care, or scarcity of food, and by Indians, 5300. Total, 16,400. Life was cheaper than under Anglo-Saxon law, when for killing a churl the murderer had to pay ten pounds, though for sixty pounds one might kill a king and go free. Had Herod, for the slaughter of the Innocents, been brought before a San Francisco jury at that time he would have been acquitted. Judas Iscariot amongst the California Christians would have passed unscathed so long as any part of his thirty silver pieces remained with him. Scores of quidnuncs, political Paul Prys, *soi disant* patriots, hung round every drinking-saloon. As Plato said of the Athenians, "It is dreadful to think that half the people we meet have perjured themselves in one of the numerous law-courts." Thus the moral perspective of society was anything but pleasing.

Time was when the personage whom no one knew, called Man in the Moon, was employed to negotiate bribes. But no such clap-trap was necessary in the present instance. In every precinct was a politician-shop, where third and fourth rate wares from Ireland, and old rotten relics from the eastern states, newly veneered and varnished, were palmed off on the people of California as sound and genuine.

The reign of order following the demolition of the Society of Regulators was of short duration. The disease which had fastened itself on this infant society with such virulence was not eradicated, but only scattered. Further indications of popular determination were visible during the midsummer of 1850, and although the climax was not reached until six years after, the main issues were seldom lost sight of. In the mad race of money-getting, office-holders as well as others were troubled with the itching palm. Gold dust was abundant; every one appeared to be getting rich; business men were not always

over-scrupulous in the means employed for the acquirement of wealth; San Francisco was a mighty metropolis in embryo; why should not her officers make money with the rest? So they voted themselves large salaries, built and bought extensively, let contracts to supporters at double current rates, stole the public lands, imposed heavy taxes on the people, and swelled the public debt until the young city groaned beneath the weight. They were not only sordid in their craving for gain, but indecent in their sordidness. There were now those present who looked upon San Francisco as their future home, who had the city's true interests at heart, and these regarded with no favorable eye the doings of political leeches.

Like everything Californian, when government set in, it was with a vengeance. Following the approval by the people of the city charter, May 1, 1850, it became necessary for a city of fifteen thousand inhabitants to pay a mayor, a recorder, a comptroller, a city marshal, and a city attorney, each a salary of $10,000 per annum. There was a board of aldermen, and a board of assistant aldermen, sixteen members in all, at a salary of $6,000 each; a treasurer at $6,000, and a tax collector at $18,000. When the officials voted this yearly expenditure of $170,000, and other like exorbitant sums, out of the people's pockets into their own, under the usual caption, 'The people of the city of San Francisco do ordain,' it was first thought to be a joke, though a sorry one, and it was supposed the ordinance would be immediately rescinded. Such was not the case, however, and it soon became apparent that the citizens would not submit to it. The city was already heavily in debt, and no provision had been made for the payment of obligations long since due. Such a course was blighting to her prospects, ruinous to her credit, and calculated to drive away settlers and capital.

On the 3d of June a call was made to attend a primary meeting at the Merchants Exchange, pre-

paratory to a mass meeting to be held for the purpose of adopting prompt and efficient measures for retrenchment and reform. The meeting was well attended by the most intelligent and influential men of the city. But this was not all. So general was the indignation felt toward the common council for its late unwarrantable conduct, that without concert several simultaneous meetings had been projected by different parties of citizens. "We are willing," said they, "to submit to just and equal taxation, to pay our municipal officers who devote their time to public affairs a reasonable salary, but the ignorance, together with the lack of energy and ability manifested by the new council in extricating the city from financial difficulties, requires immediate action on the part of the people."

At eight o'clock a large and enthusiastic meeting was held in the plaza, the cheers and groans from which every now and then fell with electrical effect on the ears of the aldermen in session near by. On the evening of the 5th a still larger meeting, the largest ever yet assembled in Portsmouth Square, openly avowed the principle that the people should not tamely suffer wrong at the hand of their rulers. There was no thought of disorder, or of inflaming the public mind, or of rousing themselves into a passion. Violence, either in word or deed, was condemned. "We do not intend to mob them," said General Wilson, who presided; "we come here to give forth the voice of this community." The great public heart was aroused, and the people had resolved, calmly but decidedly, to tell their evil-minded officials to change their course or resign.

A committee of twenty-five was appointed to wait on the council and make known the will of the people, which was, "to abandon the scheme of high salaries, and remodel the schedule of oppressive taxation; and unless willing to do so, to resign, and give place to more efficient and patriotic men." The council re-

ceived this reproof coldly, and laid it on the table. This was heaping insult on injury. The people had placed the councilmen in power; they had a right to meet to comment upon their acts, and to demand that those in office should not misrepresent them.

On the 12th of June another mass meeting was held, and the same committee, with power to increase its number to five hundred, was authorized to present the same resolutions before the common council, in such form as the committee should think proper. Of this committee J. L. Folsom was chairman. After having added the authorized five hundred to their number, the committee resolved to march in procession to the council chambers, and there demand obedience to the people's wishes. The evening of June 14th was the time fixed for this second visit, but on that day one of the great fires swept the city, and further action was delayed. The result of these meetings, however, was to check the extravagance of the officials, and give them wholesome warning.

These facts are important as showing the mildness and forbearance of the citizens of San Francisco under aggravating wrongs. Far from being riotous or disorderly, they were lovers of law and quiet; and never, until all other means had failed, and time had worn patience to a film, and the actual salvation of the city depended on it, did they resort to arms. Notwithstanding their nerve, judgment, and decision, there never was a more orderly and peace-loving people; otherwise how should they have staked their all for order and peace? Surely they might have rioted with the rest, had they so chosen.

Not until the 10th of December, 1852, did the first capital execution under sentence of a lawful tribunal take place in the county of San Francisco. The name of the person laying claim to this distinction was José Forner, and his crime the murder of a Mexican in Pleasant Valley on the 13th of September. The

execution took place on the slope of Russian Hill, about three quarters of a mile from the county jail.

At Sacramento matters were no better. Not satisfied with attempting to overawe the people, the self-appointed regulators of society sought to suppress public opinion. In a certain issue of the Sacramento *Times* the editor, Mr Lawrence, had called the attention of the city authorities to a drinking-saloon, called The Branch, immediately opposite his office, where daily and nightly orgies were held of a noisy and disreputable character. For this, about 9 o'clock on Sunday night, the 13th of April, 1851, as he was passing the place on his way home from the theatre, he was set upon by a gang of hangers-on, some twenty or thirty in number, knocked down, and beaten into insensibility. And they threatened with like punishment any editor who dared question their vile proceedings. This dastardly attack upon a worthy man for doing nothing but his duty roused the indignation of the people, who thereupon issued a circular, signed by about a thousand of the best men, in which they declared their alarm at the growing indications of crime in their midst. "We had hoped," said they, "that the summary punishment which has already been inflicted upon a number of the villains who have been detected in crime would admonish the balance, and free us from any further inroads upon our laws, our rights, or our lives. We, therefore, having heard that they design an attack upon the various editors of the city, and in their own language to make a clean sweep of them, do hereby pledge ourselves to sustain every paper in Sacramento in reprobating to the full extent of their power the outrages of these scoundrels in iniquity. And we furthermore assure the editors and publishers of our city, separately and collectively, that if any or the slightest injury be inflicted upon one or any of them in consequence of such a course editorial being pursued, we will inflict upon the parties

so injuring a punishment from which they will never recover."

To return to San Francisco. The first of December, 1850, affairs stood thus: Highway robbery, hitherto confined to the outskirts of the city and perpetrated only at night, had entered the town and was practised in the daytime. Crime stalked boldly in the public thoroughfares. Attempts at incendiarism, with a view of profiting by the confusion and securing plunder, were frequent. It was ascertained beyond question that another organization existed, and that its agents were in every part of the city engaged in divers occupations that their nefarious schemes might thereby the better be covered. They had spies who usually assumed the role of peddlers, and under pretence of disposing of their wares examined premises marked for robbery. The police force was small and inefficient. In case of an arrest the law was powerless; false witnesses were suborned, and straw bail given, and not more than one in ten was ever convicted. Crimes were classified and systematically parcelled out to adepts. A large number of boys from ten to sixteen years of age were employed; these, trained by their superiors in crime, displayed marvellous dexterity. Females also belonged to the band; and there were houses of refuge, and places where their implements were concealed. Says one of the journals of the day: "We believe it to be the duty of every citizen to arm and hold himself in readiness to act in the capacity of guardian of public safety at any moment. There should be a simple machine of wood erected on the plaza, with a rope attached, and some five or six examples should be made which would strike terror into the rest."

A fire which occurred on the night of the 14th of December, evidently the work of an incendiary, lighted in the iron building of Cooke Brothers and Company on Sacramento street between Leidesdorff

and Montgomery, for the purpose of burning the Pacific Mail Steamship Company's office near by so as to seize the treasure left there for shipment, called forth similar plain expressions from the *Herald*, whose editor, as we shall see, was ruined by opposition to the Vigilance Committee of 1856: "We do not advocate the rash and vengeful infliction of summary punishment on any person against whom the proof is not positive of his connection with those crimes; but although opposed to capital punishment in old communities, where the execution of the law is so perfectly systematized that justice seldom fails of its victim, we nevertheless believe that some startling and extraordinary correction is necessary in San Francisco to arrest the alarming increase of crimes against property and life, and to save the remainder of the city from destruction."

William Wilson was caught stealing a shirt and vest in Middleton and Hood's crowded auction room, in San Francisco, in February. This kind of thing was becoming too common. With one accord the buyers present stopped their bidding, and turning upon the wretch beat him with fists and clubs and iron hoops until well scarleted with his own blood, when they handed him over to a policeman.

The 9th of March, 1851, witnessed an indignation meeting on the plaza. The *Herald* was then the champion of the people's reform party, as it was in 1856 the ultra organ of the law and order party. William Walker, one of its editors, for some time past had been endeavoring to rouse the people from their lethargy in regard to social disorder, and in so doing had indulged in severe strictures on the masterly inactivity of the courts. This displeased Judge Levi Parsons, of the district court, who requested the grand jury to pronounce the press a nuisance, and punish its plainness of speech. The *Herald* retorted. Walker was arrested, brought into court, and fined five hundred dollars for contempt, which he refused to

pay and so was sent to prison. Four thousand people met and said the thing should not be; four thousand people condoled with Walker in prison, and requested Parsons to resign. A writ of *habeas corpus* from the superior court liberated the imprisoned editor. Under popular censure, more fully expressed by the state legislature then convened, the power of the irate judge withered, and not long afterward he resigned.

The last day of this same month, while the examination of William Slater for the murder of Elijah M. Jarvis was in progress at the court-house on the plaza, as the officers were conveying the prisoner from the court-room to prison, a party of twenty horsemen from Mission Dolores made a dash at them, for the purpose of seizing Slater, taking him to the Mission, and hanging him. The murder had been committed under the most aggravating circumstances, and the people knew of no earthly power from which they might seek redress. Followed by an excited crowd, the officers hurried their prisoner along Kearny street, and secured him in the station-house, although they were well-nigh trampled by the horsemen. Thus foiled, the Mission men were furious. After an unfruitful effort to excite a raid upon the prison, with loud oaths they retired.

As if the combined misdeeds of the officers of the law and the legitimate dealers in human blood were not enough to exhaust the patience of the honest and industrious of San Francisco, a new order of yet more aggravating villainy was now brought forward. This was nothing less than a determination on the part of the vultures to burn the city, for the opportunity it would offer for pillage. Fire is the devil's natural element; and if now of the merchandise and buildings of the city, the products of extraordinary toil and privations, a grand bonfire could be made, the emissaries of Satan might at one sweep avenge all past attempts of retributive justice, and hold a hellish jubilee.

The great fire of the 4th of May, 1851, occurring on the anniversary day of the great fire of May 4, 1850, was supposed to have been the work of the miscreants. It started in a paint-shop, the owners of which claimed to have exercised their usual precautions. Be this as it may, eleven days after, almost before the smoke of the great conflagration had wholly cleared away, there was another attempt made to fire the city about which there is no question. Some inflammable substance was ingeniously arranged in a store-room of the Veranda saloon, corner of Kearny and Washington streets, to which a slow-match had been applied. It was extinguished before it had spread. The next night, the 16th of May, the city hospital then filled with patients was fired by placing a burning lamp under a straw bed. The flames were blazing brightly when discovered, and the building narrowly escaped.

This was not all. On the night of the 3d of June, one month after the last great annual May fire, two attempts were made to burn the city. A pile of shavings was found ignited under the stairway of a new house on Commercial street, where a few minutes before certain suspicious persons had been seen lurking.

The same night one Benjamin Lewis, a Sydney convict, was arrested for firing a house on Long Wharf. During the preliminary trial a cry of fire was raised. Though the alarm was false, the excitement was so great that the officers were compelled to remove the prisoner to another room. When the judge announced that the prisoner would be committed for trial, and ordered the sheriff to bring him in, from the door-way cries were heard, "Hang him!" "Lynch him!" "Bring him out!" Fast filling the street was a tumultuous mob gathering. The mayor ordered the California and Washington guards to hold themselves in readiness, and mounting the upper balcony, essayed to quiet the people. Meanwhile the

prisoner was secretly removed to a safer place; and on the assurances of the mayor and marshal that he should have a prompt trial the crowd dispersed.

Fire was kindled simultaneously in several places on California-street wharf, where were quantities of hay and lumber, on the 7th of June. The flames were discovered and quenched. Next morning the *Alta California* came out in a strong editorial urging the people to unite and adopt measures for saving the city. The day of reckoning was at hand.

CHAPTER X.

MOBOCRACY IN THE MINES.

Ed io che di mirar mi stava inteso,
Vidi genti fangose in quel pantano,
Ignude tutte, e con sembiante offeso.
Queste si percotean, non pur con mano,
Ma con la testa, e col petto, e co piedi,
Troncandosi co 'denti a brano a brano.

Dell 'Inferno.

While San Francisco was thus being stirred by the spirit of evil, let us look at other parts of the state and see how matters were progressing there.

In the great valleys of the San Joaquin and Sacramento, during the year 1849, the halcyon days of the previous year for the most part continued; nevertheless there were short, quick spasms of justice among the miners, which as a faithful recorder of events I cannot pass unmentioned. Although dropped into the concretions of the new societies as a *lusus naturæ*, they nevertheless, to a calm observer, were significant of what would speedily follow.

From the time of the Greek voyager Ulysses to that of the English philosopher Shaftesbury, dissimulation has been regarded as an indispensable quality in governing. Without art and policy, without intrigue and overreaching, no man or set of men might rule. *Qui nescit dissimulare, nescit regnare.* The moral code of almost every age and nation recognizes deceit as a fair weapon to be used against an enemy.

In this respect the morals of the Californian miners were far purer than those of the Machiavellian school. They would shoot their enemy, or hang the enemy

of their camp, but they would not deceive him. They found a way to rule themselves and their little societies without Jesuitical cunning. They were the sons of their father Adam whose eyes had been opened to know good and evil, and when they saw wickedness coming into camp, warned by the folly of their primogenitor, they lifted their heel and crushed it.

Foote thinks that with the greatest propriety we may laugh at him who affects to be what he is not, or who strives to be what he cannot. Far less than the subtle diplomatist who scorns the simple methods of honest men; far less than the politician who preys on the patriotism of honest men; far less than the ruler, or legislator, or law-manipulator, who would throttle honest men sooner than permit them to punish crime if such action is to disturb the slumber of his sacred form—far less than these, to whom dissimulation is bread, do the miners of California, in their administration of justice, subject themselves to the derisive smile of any one. Simple, honest, earnest, they affected nothing, and in the direction of self-government, attempted nothing which they failed to accomplish. Here was a people who might give Solon or Justinian a lesson in the method of executing justice. Some one has said that their practical cast of intellect made the Romans the great law-givers of all ages. With equal propriety we might observe that the Californian miners, by their cast of circumstances, have shown to the world more than any other people who ever lived how civilized men may live without law at all. Their code was as far as possible removed from that of society morals, which is founded in the main on the *malum prohibitum* rule, that makes a thing wrong because it is forbidden. It was most catholic, most simple. Let every man do what best pleases him, only he must not injure his neighbor; if he does, he will be put where he cannot. The forty thousand volumes or so of sage decisions issued by the bewigged of divers nations contain no more law than this.

It is the duty of the government, if there be any government, to protect the people; if not, of a surety the people, if they be not dolts, will protect themselves. The Hundred Court of ancient England was bound to pay all loss by robbery unless it captured the felon. It may be that we expect too much of government; but if so, does not government expect too much of us? How then shall imperfect man make for himself a perfect government? Dull, obstinate, and irrational in its units, how shall aggregated humanity display moral and intellectual wisdom? But for the so-called evils which are forever whipping us into rectitude, we should straightway fall upon destruction.

To Placerville belongs the honor of the first popular tribunal of the placer-mining epoch. Distant but nine miles from Coloma, where gold was first discovered, the spot where now stands the town was early occupied by diggers. Placerville, however, was not the original name of the camp. It was first called Dry Diggings; afterward, for the reason which we shall presently see, Hangtown.

It was not a pleasing spectacle, this first display of unchained justice among the miners; but what could they do? Five men, one night about the middle of January, 1849, had entered the sleeping-room of a Mexican gambler named Lopez, and had attempted to rob him. One of them had placed a pistol at the head of the gambler, while the others seized his effects. Before they could escape Lopez had succeeded in giving the alarm. Roused by his cries, the miners had rushed in and arrested the whole gang.

Again I ask, what could they do? Stand there holding the thieves until a jail was built, or until congress should send sheriff and judge? They must either turn them loose to further and instant crimes, their numbers quickly multiplied by the absence of punishment, or they must themselves do justice, God

helping them, as best they might. So they selected from amongst their number twelve, who ordered the culprits to receive each thirty-nine lashes; which having been well laid on, with due energy and decorum, three of the five, García and Bissi, Frenchmen, and Manuel, a Chileno, were further charged with robbery and attempted murder on the Stanislaus the autumn previous. The charge was easily enough proved; the men, lying exhausted from their late punishment, were unable to stand or speak during this second trial. "What shall be done with them?" the improvised judge asked of the two hundred assembled. "Hang them," said one. E. Gould Buffum was there, and mounting a stump begged them, in the name of God, humanity, and law, to desist from their meditated action. But the miners, now warmed with drink, would not listen to him. The prisoners were bad men, and this thing must be stopped at once. So with ropes round their necks, the three condemned were driven in a wagon under a tree, and there hanged; after which they were cut down and buried in their blankets. And thereupon the place which before this was known as Dry Diggings was for a time called Hangtown.

Amongst the many Edens of this early epoch none were more radiant than Rose Bar, where two hundred miners were encamped in October, 1849. Of many another Eden, and of all the country round, Rose Bar was the envy, for it enclosed its Eve, a white one, called by courtesy Mrs Mace, being the *quasi* spouse of a New Orleans captain of that name. With rocker and quicksilver, returns were from one to six ounces a day, and life was as high as the labor-returns. Life was high, but it was soft and heavenly, for a woman was there, a white one. Not far from her cabin was a nice nest of Mississippi River poker-players, sardonically smiling in answer to pet names, such as Blue Peter, Dungaree Jack, and Arkansaw Pike. Between

such rare delights the captain was a spirit blest, for he loved the company of the poker-players, and left with them many an ounce; until at length Mrs Mace, declaring herself competent to do wickedness for the family, left her lord and marched away to San Francisco, where she opened a house of unquestionable entertainment. Nor could Rose Bar ever entirely recover from the refining effects of the female presence. Aside from this, it was an exceedingly moral place. There were no lawyers there, no doctors, and but one thief, Woolly Mike, who rose early one morning, and taking from his company's claim the gold left in the quicksilver over night, went and hid it. Suspected, searched, Mike gave the secreted amalgam a fling which scattered it in the chaparral behind his tent. But the glittering mercury betrayed him. He was lightly punished with twenty-five lashes, twenty minutes being given him afterward in which to walk away.

And now from the close of this year of 1849, behold the august mobs improvised as occasion required in every camp and cañon of the Sierra Drainage, the quiet oaks meanwhile tasselled with the carcasses of the wicked! There were mobs of every quality, and for every emergency; tumultuous routs for the regulation of a carouse; displays of brute force for the promulgation of vulgar sentiment; violent tyrannies for the attacking of homely prejudice and the harassing of sanctimonious piety—mobile masses moulded by wild environment to extravagant opinion. There were mobs to establish a fight, and to settle every species of dispute; mobs to hang, to whip, to tar and feather, to duck, to drive from town; mobs to guide itinerant gamblers on their way, gently to set revolving run-down, erring woman, to direct the brawlings of belligerent drinkers, to christianize with clubs celestial heathen, to assist at the shrinkings and expansions of valuable mining-claims, to dampen the

enthusiasm of Mexican miners, to light free negroes from the sacred precincts of the immaculate color.

Clothed with God-given intelligence and power, and filled with devil-distilled whiskey, they were ripe alike for gentle ministrations or mad extravaganzas, for sharing their last bread and bacon with the needy, or for administering the hempen fate to those whose characters chance had colored. Cases there were when a victim was required to appease the wrath of an unfortunate miner who had lost his gold dust, or of a teamster whose cattle had strayed, one would answer as well as another, and woe betide the suspicious-looking stranger who falls into their hands while in such a humor. Unless he can give a satisfying account of himself, better had he never been born. It must be admitted that sometimes the matter was determined before the trial, that sometimes the accused was hanged first and tried afterward, if indeed he was tried at all. Neither did he who played the part of hangman stop to consider his fee, nor did he expect anything from the person executed, as once would have been the case in England.

"On my way to Marysville," writes Mr Coke, in 1850, "I stopped a couple of days at Sacramento. The weather was beginning to be cold. I had been rambling all the morning through the town, and was just returned to my hotel, and sat ruminating over a large stove in the bar-room, thinking Sacramento about the most comfortless place in the world. In the course of my walk I had observed a crowd collected round a large elm-tree in the horse-market; on inquiring the cause of this assembly, I was told that a man had been lynched on one of the lower boughs of the elm at four o'clock this morning. A newspaper containing an account of the affair lay on a chair beside me, and having taken it up, I was perusing the trial, when a ruffianly-looking individual interrupted me with, 'Say, stranger, let's have a look at that paper, will you?' 'When I have done with it,' said I, and

continued reading. This answer would have satisfied most Christians endowed with any moderate degree of patience; but not so the ruffian. He leaned himself over the back of my chair, put one hand on my shoulder, and with the other held the paper so that he could read as well as I. 'Well, I guess you're readin' about Jim, ain't you?' 'Who's Jim?' said I. 'Him as they hung this morning,' he answered, at the same time resuming his seat. 'Jim was a particular friend of mine, and I helped to hang him.' 'Did you?' said I; 'a friendly act; what was he hanged for?' 'When did you come to Sacramento City?' 'I arrived only this morning, and have not yet heard the particulars of this case.' 'Oh well! I reckon I'll tell you how it was, then. You see, Jim was a Britisher; that is, he come from a place they call Botany Bay, which belongs to Victoria, but ain't exactly in the old country. I believe when he first come to Californy, about six months back, he wasn't acquainted none with any boys hereaway, so he took to digging all by hisself. It was up at Cigar Bar whar he dug, and I happened to be a digging there too, and so it was we got to know one another. Jim hadn't been here a fortnight before one o' the boys lost about three hundred dollars that he'd made a cache of. Somehow suspicions fell on Jim. More than one of us thought he had been digging for bags instead of dust, and the man as lost the money swore he would have a turn with him, and so Jim took my advice and sloped.' 'Well,' said I, 'he wasn't lynched for that, was he?' ''Tain't likely,' said the ruffian; 'for till the last week or ten days nobody knowed whar he'd gone to. Well, when he come to Sacramenty this time, he come with a pile, and no mistake, and all day and all night Jim used to play at faro, and roulette, and a heap of other games. Nobody couldn't tell how he made his money last so long, nor whar he got it from, but certain sure everybody thought as how Jim was considerable of a loafer. Last of all, a blacksmith as lives in Broad

street said he found out the way he done it, and asked me to come with him to show up Jim for cheating. Now whether it was that Jim suspected the blacksmith I can't say, but he didn't cheat, and lost his money in consequence. This riled him very bad, and so, wanting to get quit of the blacksmith, he began to quarrel. The blacksmith was a quick-tempered man, and after a good deal of abuse could not keep his temper any longer, and struck Jim a blow on the mouth. Jim jumped from his seat, pulled a revolver from his pocket, and shot the blacksmith dead on the spot. I was the first man that laid hold of the murderer, and if it had not been for me, I believe the people in the room would have torn him to pieces. "Send for Judge Parker!" shouted some. "Let's try him here," said others. "I don't want to be tried at all," said Jim; "you all know damned well that I shot the man; and I know bloody well that you'll hang me. Give me till daylight, and then I'll die like a man." But we all agreed that he ought not to be condemned without a proper trial, and as the report of the pistol had brought a crowd to the place, a jury was formed out of them that were present, and three judges were elected from the most respectable gentlemen in the town. The trial lasted nearly a couple of hours. Nobody doubted that he was guilty, or that he ought to be hanged for murder; but the question was whether he should die by lynch-law or be kept for a regular trial before the judges of the criminal court. The best speakers said that lynch-law was no law, and endangered the life of every innocent man; but the mob would have it that he was to die at once; so as it was just then about daylight they carried him to the horse-market, set him on a table, and tied the rope round one of the lower branches of a big elm-tree. All the time I kept by his side, and when he was getting on the table he asked me to lend him my revolver to shoot one of the jurymen, who had spoken violently against him. When I refused, he

asked me to tie the knot so as it wouldn't slip. "It ain't no account," said I, "to talk in that way, Jim, old fellow; you're bound to die, and if they didn't hang you, I'd shoot you myself." "Well, then," said he, "give me hold of the rope, and I'll show you how little I care for death." He seized the cord, pulled himself in an instant out of the reach of the crowd, and sat cross-legged on the bough. Half a dozen rifles were raised to bring him down, but reflecting that he could not escape, they forbore to fire. He tied a noose in the rope, put it round his neck, slipped it up till it was pretty tight, and then stood up and addressed the mob. He didn't say much, except that he hated them all. He cursed the man he shot; he then cursed the world; and last of all, he cursed himself; and with a terrible oath, he jumped into the air, and with a jerk that shook the tree, swung backwards and forwards over the heads of the crowd.'"

Clarence King elaborates in the following language a burlesque of the popular tribunal before the inception of the vigilance organization: "Early in the fifties," he says, "on a still, hot summer's afternoon, a certain man, in a camp which shall be nameless, having tracked his two donkeys and one horse a half mile, and discovering that a man's track with spur-marks followed them, came back to town and told the boys who loitered about a popular saloon that in his opinion some Mexican had stolen the animals. Such news as this naturally demanded drinks all round. 'Do you know, gentlemen,' said one who assumed leadership, 'that just naturally to shoot these greasers ain't the best way? Give 'em a fair jury trial, and rope 'em up with all the majesty of law. That's the cure.' Such words of moderation were well received, and they drank again to 'Here's hoping we ketch that greaser.' As they loafed back to the veranda, a Mexican walked over the hill-brow, jingling his spurs pleasantly in accord with a whistled waltz. The advocate for law said in undertone, 'That's the cuss.'

A rush, a struggle, and the Mexican, bound hand and foot, lay on his back in the bar-room. The camp turned out to a man. Happily such cries as 'String him up!' 'Burn the doggoned lubricator!' and other equally pleasant phrases, fell unheeded upon his Spanish ear. A jury, upon which they forced my friend, was quickly gathered in the street, and despite refusals to serve, the crowd hurried them in behind the bar. A brief statement of the case was made by the *ci-devant* advocate, and they shoved the jury into a commodious poker-room, where were seats grouped about neat green tables. The noise outside in the bar-room by and by died away into complete silence, but from afar down the cañon came confused sounds as of disorderly cheering. They came nearer, and again the light-hearted noise of human laughter mingled with the clinking glasses around the bar. A low knock at the jury door; the lock burst in, and a dozen smiling fellows asked the verdict. A foreman promptly answered, 'Not guilty.' With a volley of oaths, and ominous laying of hands on pistol-hilts, the boys slammed the door, with: 'You'll have to do better than that!' In half an hour the advocate gently opened the door again. 'Your opinion, gentlemen?' 'Guilty!' 'Correct! You can come out. We hung him an hour ago.' The jury took their seats; and when, after a few minutes, the pleasant village returned to its former tranquillity, it was allowed at more than one saloon that 'Mexicans'll know enough to let white men's stock alone after this.' One and another exchanged the belief that this sort of thing was better than nipping them on sight. When, before sunset, the bar-keeper concluded to sweep some dust out of his poker-room back door, he felt a momentary surprise at finding the missing horse dozing under the shadow of an oak, and the two lost donkeys serenely masticating playing-cards, of which many bushels lay in a dusty pile. He was reminded then that the animals had been there all day."

Bret Harte gives a similar travesty, concluding it in words to the effect that the crowd becoming impatient at the lengthy deliberation of the jury, the ring-leader put his head in at the door and asked them if they had agreed upon their verdict. 'No,' replied the foreman, sharply. 'Well, gentlemen,' said the mob man, 'take your time; but remember, we want this room to lay out the corpse in.'

Punishment was inflicted in the same liberal off-hand manner that characterized everything Californian in those days. There was less splitting of hairs than of heads. Sometimes the most trivial incident would determine whether a culprit should be whipped or hanged. While multitudes of minor offenders suffered capital punishment, no more could be inflicted upon the worst criminals. Lynching for cattle-stealing obtained throughout the whole country, and even round San Francisco Bay, as late as 1855. A criminal affair was often made a sort of pastime, which might be prolonged or shortened according to the appetite of the crowd, or the time at their disposal.

It was the Hispano-Californians, they said, who stole the cattle about the Bay; but these being the possessors of the cattle, and the lately arrived Yankees needing beef, it would seem to be a question who did the stealing. Old man Murray, as he was called, lost at one time twenty-five American cows, worth four thousand dollars, and his neighbor Fallon one hundred animals, worth six thousand dollars. Two Frenchmen at San Antonio, since called Brooklyn, and East Oakland, caught butchering stolen cattle, were tried by the people and hanged. Two other men, Leonard and Moran, slaughtering back of Blaiz' restaurant, near the bridge, narrowly escaped with their lives.

When in July 1850 four Americans detected four Mexicans in the act of burning a tent and two dead bodies at the Green Flat diggings, not far from

Sonora, summary executions had not yet become fashionable in those parts, though the people were strongly tempted to hang the body-burners. The Mexicans affirmed that they did not kill the men, but found them there in a state of decay, and following the custom of their country, they burned them with their effects. It was an act of pious charity, not an atrocious deed. There was no evidence against them; nevertheless the miners longed to play judge and hangman, but the time was not yet ripe for it.

At Sonora, incarnadine was the temper of the time. On Sunday the diggers from every near and distant camp came flocking in, each bringing his share of general entertainment in the form of accounts of robbery or murder, and the one who told the best story was the best man. Thus history is made; the positive of one becomes the comparative of another, and the superlative of a third, the latest historian always striving to tell the largest story. The Sunday following the body-burning at Green Flat, over three thousand men gathered at Sonora, and many rumors of dark deeds were afloat. Twenty murders in twenty-five days, they counted up, and robberies in proportion. Men were bad, and women were bad. Under the influence of rich deposits and the inspiration of rivulets of rum, three or four flabby-faced, bleared-eyed females, of the kind called virtuous, had been brought to Sonora, and made the nucleus of refined society. They used to marry quite often. One married anew the day after her husband left for Stockton; another married anew the third day after her husband was hanged. And now they were present in this crowd, speculating in their minds as to their next change, when crack! a pistol-shot is heard, and a stalwart miner bites the dust. So dry and tinder-like was passion then, that men could not even meet to take measures for the suppression of murder without a little killing.

As the afternoon wore away, the air became preg-

nant with suppressed vengeance. The Mexicans were seized and handed over to the judge of the district. Next morning eighty riflemen marched through the streets, bearing before them the American flag. These were soon joined by three hundred miners, an embassy from the scene of burning, with knives and pistols ornamenting their belts, determined to see punishment inflicted on the burners. After some little parade, the captain of this company waited on the judge, and informed him that his men would brook no delay in the trial of the prisoners; the matter must come up before nightfall. The judge replied that that could not be, as there was no grand jury impanelled, meanwhile warning them not to do violence.

Tuesday there were not less than two thousand men, with muskets and rifles, marching the streets. One would think that every gun in Tuolumne had been brought into requisition. Men who left their digging to shoulder a gun showed their earnestness. At three o'clock on that day the trial of the four body-burners for murder began in the district court. The place was thronged within and without the court-room. The prisoners were arraigned, and pleaded not guilty. At this juncture one of the guard standing on a bench dropped his gun, the hammer of which, striking on a box, sent off the charge with a loud explosion. This was enough. Hundreds of weapons instantly sprang from their sheaths, and a rush was made by the inmates of the court-room for the door. The scene that followed was terrible. Confinement and the uncertainty as to what was coming seemed to madden them. Another accidental shot brought forth a cry of alarm, and renewed the struggles of the inmates to reach the open air by way of door and windows. Outside the court-room walls there was a little shooting in earnest, but no one was killed on that occasion. Quiet was finally restored, and after watching the proceedings in court for a time, the miners finally retired, and let justice take its course.

The demonstration had been made in a spirit of mobocracy; and yet I have never known another so large and so determined a mob lay down their power so gracefully when assured by the judge that justice would be done. The four Mexicans were not criminal.

Two boys, Hendricks, kept the Colusa Hotel in 1850. About the premises were some twenty wood-choppers and regular hangers-on, among whom was a boy named Johnson. The hotel cash was kept on a shelf in a sardine-box; that is, such of it as was not stolen by some unknown hand. Johnson was suspected, and whipped into a confession of guilt. Meanwhile a mob gathered which did more whipping, and talked of branding; but certain humane boatmen interfered, and saved the lad from further brutality. The sequel pointed to the innocence of the boy; and it was thought he confessed to a crime of which he was not guilty in order to escape punishment; for his tormentors had assured him if he would confess he should not be whipped further. But though perhaps innocent of pilfering the Hendricks' sardine-box, it is very certain if the boy had not been known as bad he never would have been suspected or whipped.

An Englishman, named Sharp, formerly a sea-captain, on Christmas day, 1850, shot to death a man near Auburn. Sharp surrendered to the sheriff, but was taken by the people, tried, and executed.

Irish Dick, as the gambler Richard Cronin was called, although but twenty-one years of age, was known to have killed a man in a street fight, a friend, whom he had mistaken for an assailant. When a short time afterward he shot a newly arrived emigrant in a saloon, he was instantly seized and tried by those present. Guilt was easily proved, and immediate execution determined upon. Placed beneath a tall tree, a rope was put round his neck, the other

end of which willing hands seized. Dick begged to be allowed to climb the tree and jump from the limb above, but this request was denied him. His bravado lasted throughout the trying scene, which was witnessed by ten or fifteen hundred people. Dick assured them if he only had his knife, with freedom to use it, he would like nothing better than to fight the crowd.

Another account of this execution is given by Saint Amant, French consul at Sacramento in 1851. Allowance must be made for discrepancies in these statements, as, writing the incidents of the time for publication in France, historical accuracy would be liable to be sacrificed to the making of a good story. According to Amant's account, when the mob had brought Cronin to a tall tree which had been chosen for his execution, it was found that there was no ladder for the hangman to climb up by. This difficulty, however, was soon overcome. One end of the rope was placed in a noose round Cronin's neck; the other was placed in his hand, and he was told to climb the tree, monkey-fashion, while those below would direct him, pointing out the particular limb to which the cord should be attached.

The condemned was allowed time to smoke a cigar, which he asked as a particular favor might be a real Habana. Having knotted the rope to the branch designated, he was then permitted to make his farewell address, which proved to be the story of his life. He told of much wickedness, and seemed comforted thereby. He would have continued talking for an indefinite time, and so have postponed the end of that recital which was to begin his eternity; but the patience of his hearers being exhausted, the foreman of the jury that had tried him gave the signal agreed, and without a word further, the gambler threw himself from the limb on which he stood. The fall was arrested by the avenging hemp, and the soul sped quickly hence.

A trunk was broken open in a room of a public house at Johnson's Ranch in October, 1850, and four thousand dollars were stolen from it. A man and his wife, named Hewsters, cooks employed in the house, had occupied the room, and on them suspicion was fastened. They protested their innocence. With the woman they did nothing; but as the increasing crowd increased its potations, its members saw through the case more and more clearly, until they concluded to whip the facts out of the man. Tying him to a tree, they laid bare his back, and cut it raw with a hundred lashes. Still the man protested his innocence, and the brutal crowd soon arrived at the same conclusion. Commenting on the outrage, the *Placer Times* remarks: "If the man is really innocent, the violators of his person should be severely dealt with." It is by such shallow logic we are taught politics and morals. Any school-boy might know, did he take the trouble to think, that the perpetrators of this deed were equally in error, whether the man was innocent or guilty.

New York of the Pacific was the name of an embryo metropolis of magnificent expectations in 1850 and 1851. It boasted a hotel called the Kennebec House, into which three men forced their way one night, and amused themselves by opening trunks and carrying off the contents. Arrested by citizens, they were tried, whipped, and branded on the hip. To escape hanging, which one of them greatly feared, he endeavored to kill himself by severing an artery. That comfort, however, was denied him; for though he cut his arm nearly off, he was saved for milder punishment by his whippers.

CHAPTER XI.

FURTHER ANTICS OF JUSTICE IN THE COUNTRY.

Now by Saint Paul the work goes bravely on.
Colly Cibber.

Long before high carnival was held in the cañons of the Sierra Drainage, the petty sovereignty of Sutter had inaugurated a system of jurisprudence, of the Swiss captain's own invention. When an Indian committed an offence against any of the white inhabitants of Sutter's Fort, the commander of the fortress himself judged and executed judgment. Calmly and fairly as one who would secure the confidence and maintain the respect of the natives, Captain Sutter examined the cases which came before him, pronounced judgment in accordance with the evidence and with the dictates of his own conscience, and then ordered the culprit whipped or shot, according as he deserved. This was the course of procedure where the accused was one of his own Indians and the injured one of his white retainers.

When a white man offended a white man in his employ, all the white men of the Fort were summoned to sit in judgment on the case. In such trials Captain Sutter presided as chief, and the others as associates, or jurors, and by the tribunal so organized, the penalty, if guilt was found, was fixed and exacted.

For criminal cases arising among the natives themselves, Captain Sutter arranged for them a court of their own. He as monarch nominated the judge and appointed the officers. Having a military organization

composed entirely of his own native adherents, it was not unnatural or difficult for him to organize a tribunal in which they might try their own causes, and by their own officers execute judgments.

No sooner was gold discovered, however, than this ingenious method of administering justice to the satisfaction of all concerned, in common with every other means for the benefaction of the natives in those parts, was crushed under the heavy heel of gold-thirsty adventurers.

Then began in and round the Fort, beneath the very eyes of the occupants, and indeed, in many cases, by the occupants themselves, every species of depredation, until the poor Swiss, his mills unbuilt, his manufactories abandoned, his cattle stolen, and his grand enterprise for the settlement and pacification of that valley forever blighted, sought refuge at Hock Farm, where he thought to die in peace, though even that blessing was denied him.

Samuel Brannan, at an early day, kept a store within the walls of Sutter's Fort, and there learned his first lessons in popular jurisprudence. To him resorted new-comers from the Bay, and miners from the mountains, so that he possessed an excellent opportunity for seeing and judging all. His Mormon flock, on whom he kept a fatherly eye, particularly on their gold-gatherings of which he did not decline to receive a portion, worked on an island of the river near by; but these gave little trouble. Indeed, as we have seen, there was a period of remarkable quiet about that time; but both before and after the reign of righteousness in the mining districts, Brannan saw and learned enough to be of value to him for the three decades which followed.

As at San Francisco, before a jail was built at Sacramento, a dismantled brig lying in the river was employed for prison purposes. Many strange tales that old craft could tell. It answered the purpose fairly—

that is to say for the rogues. Escape from it was easy, so it was said, especially after the fetters were unlocked with money.

One issue of the Sacramento *Placer Times and Transcript*, in July, 1850, contains accounts of crimes committed as follows: Twenty-five miles below the city the body of a man was found with a lariat twisted round the left wrist, neck, and shoulders, a deep gash over the left eye, and another under the left ear, the feet tied with a black silk handkerchief, and all the pockets turned inside out. Another body was discovered tied to the limb of a tree. Not far from Yuba River the body of a murdered man was found. At Nevada a horse-thief had been whipped by the people and put to work at five dollars a day until eleven ounces of stolen gold-dust should be returned. Lastly, a dispute arising between a Nevada monte dealer and a person betting, the latter drew a pistol, and firing missed his mark, but wounded three others. No notice was taken of this affair by the horse-thief whippers. The San Francisco *Pacific News* of August 1, 1850, contains accounts of several guerilla bands in southern California, demi-savage outlaws drifted in on the tide of emigration from the south; also the news of a murder near Grayson; notice that the citizens of Jamestown and Sonora had organized a night patrol round their respective towns; an account of the robbery of a monte bank at Sonora while the dealer's back was turned; of another at Jamestown, the thief seizing a bag containing eight hundred dollars before the eyes of all congregated about the table and making his escape with it; and so on. In the last mentioned instance a comrade of the thief was hanged to a rafter of the saloon, as an accomplice, but his friends paying the amount stolen he was let down. The gambler put the money thus returned to him in his box, and in less than an hour it was again emptied. This time the thief was instantly detected, the rope fastened to his neck and again thrown over

the rafter. After being half hanged and whipped he was turned loose. Thus it was that from small beginnings, petty thefts, and fatal fights in which it was impossible to determine who was most criminal, the slayer or the slain, wickedness went on assuming a yet more belligerent attitude, and punishment was equally beastly—instance the hanging of one Bowen in a slaughter-house at Curtis Creek, January 26, 1851, for the killing of Alexander Boggs.

At a gaming-table at Sacramento two men quarrelled the 26th of February, 1851, and stepped into the street to finish their fight. A third person, Myers, passing, expostulated, whereupon one of the combatants, Frederick J. Roe, an Englishman, turned on him and exclaimed, "What the devil have you to say?" at the same time drawing a pistol and shooting him through the head. Roe was arrested and taken to the calaboose, round which a crowd gathered, crying: "Hang him!" "Hang him!" The people were at length quieted by speeches from the better citizens, who formed themselves into a tribunal, and repairing to the Orleans Hotel proceeded to try the prisoner. Growing more and more excited as the trial progressed, the people in the street insisted that the investigation room should be cleared of lawyers, and affirmed that it mattered little to them what conclusion the tribunal arrived at, they would hang the prisoner in any event. Nothing was done, however, till the murderer was pronounced guilty by the tribunal. The crowd then made an attack on the prison, but were kept at bay by the sheriff and his posse for an hour. The officer being overcome at last, the door was broken in, and the prisoner seized and hanged from an oak-tree then standing on the corner of Sixth and K streets. About the same time three men, surprised while stealing horses at Foster Bar, were captured; one was shot in attempting escape, and the other two were immediately hanged.

Two men, New Englanders, caught with stolen horses in their corral on the Cosumnes, were on the 7th of March, 1851, condemned by acclamation and hanged on the spot, all within half an hour. A jury trial was denied them. Another horse-thief was hanged about the same time on the Yuba. The 23d of March an attempt was made at San Francisco to blow up a new building near Rincon Point. An eight-pound canister of powder placed in a recess in the wall was ignited, causing a report as loud as that of a cannon. An amiable and much-beloved man, E. M. Jarvis, while walking with his wife near the Mission, on the night of the 26th of March, was stabbed to death by one Slater. It appears Jarvis had incensed Slater a few days previous by preventing a fight in which the latter had a hand. One day during the trial, while Slater was being conducted by the officers to the prison, an attempt was made by some mounted men from the Mission to seize and hang him, as has been more fully described in a previous chapter, but their effort was frustrated by the officers and met with the disapproval of the people. He was committed to await his trial in the district court.

Thus matters stood when the great San Francisco fire of the 4th of May for the fifth time laid the city in ashes, annihilated business, and hopelessly ruined thousands of hitherto prosperous men, sending despair to their hearts and misery to their homes. This was exactly what the emboldened miscreants so long unwhipped of justice had sworn to do, that they would be avenged on the cities whose people would not permit them to murder and plunder at pleasure. Instead of blaming these sufferers for hanging, the wonder is how they could have remained patient so long. This was the work of incendiaries, as several of the previous fires had been, and as was the burning of Stockton two days later; a house was fired in Sacramento at the same time, and Nevada was burned but a few weeks previous. All this was but one grand

scheme concocted by the rascals in convention assembled for the simultaneous annihilation of the chief cities of northern California.

There was a desperate band of horse-thieves in the neighborhood of Monte Diablo in 1851, and a son of Antonio Pacheco, twenty years of age, was supposed to be one of the number. On the 17th of February young Pacheco was detected in the act of stealing a pair of boots from a store in Martinez. The citizens determined to make an example of him, and although his father begged his liberation, adding earnestness to his prayers by an offer of two thousand dollars for his release, they bound him to a tree and administered one hundred lashes with a whip of six cords. It was reported that Pacheco's friends, to the number of eighty, had threatened to ride into Martinez and burn the place. The citizens, alarmed at the threat, removed their papers and other valuables to Benicia for safe-keeping, but nothing further came of the wrath of the Pachecos.

The neighborhood of Reading Springs and Secret Diggings had been visited by horse-thieves in the spring of 1851, and one man, Spofford, was known to have stolen a large number of horses. At length Bradford, McKissock, and others went in pursuit of Spofford. They came upon him in the woods skinning an antelope; Bradford fired and killed him. They recovered more than forty stolen horses.

Two thieves, with a band of mules and horses which they had stolen, most of them from the rancho of Gage and Almond, while crossing the Cosumnes with their booty the 7th of March, were arrested. Guilt was so palpable that proof seemed unnecessary; nevertheless the two men were arraigned, and a motion was made to try them by a people's judge and jury. As tidings of the affair flew from claim to claim, the diggers came pouring in. When they heard the facts and the proposal, they laughed at the idea of trial

under the circumstances. What should they try them for? There were the thieves; there was the stolen property. Trial? Bosh! Well, then, hang them at once. This sentiment suited better their temper. The men were Yankees, one giving his name as James Baxter, from Maine, and the other Charles Simmons, of Massachusetts. When told that they were to die in half an hour they begged to be permitted to live a little longer. This beautiful green and golden earth, the all-glorious sun and sweetly distilled air, the mingled enjoyment of soul and sense absorbing palpitating life, they seemed now just to begin to enjoy. But it was too late; such beauties were not made for horse-thieves. They should die; and they did die with the expiration of the half-hour. During the season a hundred thousand dollars' worth of stock had been stolen from that section, and the people were tired of it. Only the day before one Orville Hamilton, a horse-thief, made his escape while the jury were deliberating on his case. Sage, an accomplice of Hamilton, received thirty lashes for his share.

A quarrel took place at Shasta City on the 20th of March between a drunken man and his partner; the latter was killed, and the former attempted escape, but was captured and tried by the mob. The trial lasted but a few minutes before doom was pronounced; he should be hanged at four o'clock that Sunday afternoon. The man took the matter very coolly. He had entertained no ill-will toward his partner; they had been always the best of friends. But the deed was done; he deeply regretted it, but it could not now be helped. He deserved to die, and there was the end of it. Eating a hearty dinner, he talked as usual until the time appointed, when he mounted the platform with a firm step and quiet demeanor. The rope adjusted, he was given permission to speak. He warned all present against drink; that alone was now to cost him his life. He would

like to write a letter to his wife, but supposed he had not time. As the thing before him was something that must be done, he might as well be about it. So saying, he leaped into the air and came down with a jerk that settled his earthly affairs forever.

McEvoy and Williams were two friends living at Mokelumne Hill in the spring of 1851. They were out of employment, and decided to begin business by conducting a monte table. They needed capital for the purpose, which they determined to obtain by stealing horses. Their plans were well laid, but were early frustrated. A horse was stolen, and McEvoy was just in the enjoyment of the proceeds of the sale, sixty dollars, when he was arrested, taken out of town, and given twenty-five lashes.

Mr Baker, of Brown Bar, Weber Creek, was a quiet, gentlemanly person, and much respected. His partner, Andrew Scott, an unprincipled villain, became incensed at some trivial offence, and on the 5th of April killed Baker, stabbing him five or six times. It was generally known that Scott had murdered two or three other men, among them one McManus, of Missouri. This killing of Baker excited intense feeling amongst the miners, but they refrained from violent measures, and gave Scott the benefit of a fair trial, with a jury of twelve men, who found him guilty. Then he was promptly hanged.

McMurtrie and Brothers at Mokelumne Hill missed some gold dust from their store in April, and, acting on their suspicions, they enticed a young man into a secluded spot in the woods, where they accused him of the theft. His denial exasperated them, and they lashed him with a rope and switches two hundred and fifty times, determined to extort a confession. This expedient proved unavailing, and they returned to town, where a more thorough search for the lost treasure was made. It was discovered in the spot where they afterward remembered that they had secreted it. Their victim was then released, and for

fear of like punishment being awarded them by the indignant miners they left the place immediately.

A horse-thief, named Gatson, captured in Nevada City on the 20th of May, after a trial by the people, received thirty-nine lashes, which were administered by a man whom he was permitted to select. On the 29th, George Baker was hanged by the people, just beyond the limits of the city of Stockton, for a crime committed six months before. The execution was bunglingly done, and the bystanders surfeited of horror.

Sometime in May a notorious robber named Jenkins was condemned to die by the citizens of El Dorado. He made his escape, but was recaptured near Sacramento, where he received one hundred lashes, was branded on each cheek with an R, and then delivered over to the authorities of Sacramento.

Between the people of Napa and the people of Benicia in May, 1851, there were open and declared hostilities, and the cause was not a woman. The Napa people did not like it because a Benician named Cooper came to their town with a petition to the governor for the final release of a murderer which he purposed to circulate for signatures. The man killed had been their most worshipful justice of the peace, and the man who killed him was now their 'meat,' as with more force than elegance they expressed it. "Petition us no petitions," they said, "and governor us no governors; let every town attend to its own affairs."

But this doctrine did not just then suit Cooper. McCauley, for that was the murderer's name, had many friends, among whom was the governor himself. The governor was christened John McDougal, but in political puddles he was familiarly called 'I John,' such being the words beginning his sometimes ludicrous proclamations. John Bigler, another governor, could lay claim to the same distinction. The governor and the murderer were friends, because the murderer had

voted for the governor, and had induced others to vote for him. 'I, John,' was a good governor to those who murdered, or who wished to murder, provided they voted for him often enough; but for the sake of those weak in their faith in him, he would have it sound as the voice of his people which said to him, 'Loosen this bloodhound.' Hence it was that Cooper appeared at Napa, the scene of the slaughter, with this petition; not that there was any need of a petition so far as 'I, John' was concerned, but for the reflex influence of such prayer upon the people themselves.

The men of Napa, however, did not want McCauley discharged; he had killed their justice of the peace, and they were now going to kill him. Therefore they would none of McDougal, nor of Cooper, nor of the petition. Calling a meeting of citizens, a committee was appointed to wait on Mr Cooper and request him to depart. Mr Cooper declined. They ordered him to go. Mr Cooper refused. Then they took him to the ferry and thrust him across, warning him that further attempts in that direction would insure him a covering of feathered tar and a free ride on a rail. The people of Napa, in common with those of other parts of the state, were becoming tired of pardons extended by the governors to murderers who elected them to office. At the March term of the Napa court of sessions this man, Hamilton McCauley, had been tried for the murder of one Sellers, municipal judge, and condemned to death, the execution to take place on the 15th of May, and they determined that, reprieved or not, the felon should die, and on the day appointed.

He was a gentleman-villain, was McCauley; an adherent of southern chivalry, and a man of friends and family. He was not the kind of murderer that laws were made for. Likewise he was an honest villain; to him opinions were principles, and his had been handed down from ancestors of revered memory,

and inculcated during his youthful days. But he was wrong; his principles were erroneous, though honestly entertained; moreover, he was passionate; and for his principles he must die, not the death of a martyr, however, but that of a murderer. And for such law-breakers laws were not made.

It was all done in a moment; but though not premeditated, the killing was unjustifiable; it was the effect of an outburst of passion, or a fit of temporary insanity, as gentle Mrs Fair's counsel would call it.

The way it happened was thus: One day at Napa, for some real or fancied offence, McCauley attempted to chastise a black man. In days gone by he and his sympathizers had often whipped 'niggers,' but that was where the colored man was chattel, and dare not strike back. It was consistent in those days with chivalrous courage to strike a man who could not strike back. The sentiment was similar in this instance, but the action and result were different, from the fact that the assailed might retaliate, and the black man being the better of the two, the white one was badly beaten.

Not long after a party of village politicians, amongst whom were McCauley and Sellers, assembled in a store, happened to be discussing the question of slavery, when Sellers, who was opposed to McCauley in opinion, imprudently alluded to McCauley's defeat in his recent encounter with the black man. Scarcely were the words out of his mouth when the bowie-knife of McCauley was buried in the breast of Sellers.

There was talk of instant hanging; but aside from the objections of the law, McCauley had many friends, and they succeeded in protecting him. Sympathy in a great measure turned on the slavery agitation, which ran high here as elsewhere in those days. It so happened that in sentiment Benicia was mostly southern, and Napa northern; so that the former was for McCauley and the latter against him. The two towns confronted each other, angry and belligerent.

At this time it was deemed dangerous for a citizen of either place to be found in the other. We have seen how Cooper was treated, but then his mission was not one pleasing to them. On the other hand, R. L. Kilburn, of Napa, visited Benicia, when he was assaulted and would have been badly injured but for the interference of his friends. A party from Napa were awakened from sleep one night by a shower of stones which poured through the window of their room at the Benicia Hotel. One was severely injured, and all were glad to escape under cover of the night.

Before daylight in the morning of the day named for the execution, the sheriff of Solano county, with a posse of ten armed and mounted men, was on his way from Benicia to Napa with the reprieve in his pocket. He would have gone the night before by a little steamboat, of which Baxter was captain, which then plied between the two places. But Baxter was not in sympathy with the men of Benicia; so when he learned that the governor had signed the reprieve he slipped away before the usual hour and conveyed the tidings to Napa. There was no hesitation by the men of Napa as to what they would do. Napa River was then crossed by means of a ferry-boat. The unjust pardon was coming—was, indeed, at hand. When the sheriff's party arrived at the ferry, strange to say, the boat was on the other side. Lustily official lungs shouted for the ferryman, but there was no answer. All was quiet; not a soul to be seen; and there was nothing to be done but to proceed up the river to some point which could be forded. The delay thus involved was exasperating in the extreme; but hurrying forward, in due time the party arrived within the town. There also all was quiet; few were astir. About the jail nothing peculiar was observed, nothing more than might be expected on the morning of any ordinary execution. After all, thought the sheriff, we are in good season. Everything is safe; nothing could be better for our purpose. But stop! What

ominous-looking hemp is that which stretches from the prison-door in the second story down the stairway to the ground? Following the rope up the stairs and into the prison, they found attached to the end of it, drawn tightly up to a beam in the ceiling, all that remained of Hamilton McCauley.

The month of June, 1851, was prolific of popular tribunals all over the country. It was now that there was being formed at San Francisco the first Committee of Vigilance, to which we refer in the chapters following. But first a few more words touching affairs in the country.

The tent of a Chinaman in the southern mines was entered by three men, who attacked him while sleeping and attempted to rob him. He gave the alarm, and the burglars were caught in the act, but two of them effected their escape. The one remaining was immediately punished by the crowd, being suspended to a tree for some minutes, but released before death ensued. Another was captured the next morning, and received one hundred lashes. The third successfully evaded his pursuers.

At Melone, by the decision of a popular tribunal, two men were executed in midsummer, one for the assassination of Lyon, at Sonora, and the other for stabbing Acklin. The unfortunates were both Mexicans, and the tribunal that judged them was composed of Mexicans and Americans.

One Augier, a trader at Pleasant Springs, discovered bogus specimens of gold in the dust paid him by a Chileno who had been trading with him. The man was arrested on suspicion and taken to other tents, whose occupants identified him as one who had attempted the same trick with them. Efficient and energetic men then took the knave, gave him twenty-five lashes, and bade him go and return no more.

A Chinaman, while mining at Drytown, in Amador, was shot and killed by a Mexican, who made an in-

effectual attempt to shoot several others. The miners caught the Mexican and hanged him without trial. Although the crowd favored his execution, but few were sufficiently callous to carry out the sentence. As no suitable rope was at hand, a log-chain was fastened to the limb of a tree, with just enough rope for a noose. This was placed over the man's head, not without difficulty on account of his struggles; but at last the execution was achieved, though in a disgusting manner.

I have spoken several times of the existence of large and small organizations for the conducting of systematic swindling operations, but I have only one instance where an honest man was approached with an offer for his services in that direction at a fixed salary. This occurred at Nevada City, California, in July, 1851, and a gentleman of veracity living there at that time vouches for the truth of the statement.

A friend of this gentleman, a wild, frolicsome young fellow, but wholly void of evil intentions, said to him one day:

"I am offered seven hundred dollars a month to engage in stealing cattle and horses."

"Indeed!" was the reply, "that is a good salary; why do you not accept?"

"Sir," he exclaimed, "I am not a thief!"

It appears that the ungovernable spirit and reckless bearing of the young man had drawn this offer from those who followed cattle-stealing as an occupation and hired helpers at a fixed salary. It should be remembered that in the days previous to the gold-discovery and shortly following it, cattle were branded by their owners and left to run at large, and that there were immense droves of them running about, particularly in the southern portion of the state.

Among the early arrivals at Sonora was George Snow, of Maine. He worked industriously at the

mines, until he had amassed quite a little fortune, enough to excite the cupidity of some Chilenos in his employ, who determined to kill and rob him. In order to facilitate their design they purchased of him a long-tom on the 24th of June, 1851, which they agreed to pay for next day, if he would call early in the morning at their cabin for the money. The Chilenos lived in a sequestered spot at Dragoon Gulch, where they thought to effect their purpose without detection. To perfect their plan they dug a grave for their intended victim in the ground beneath their bed, and then awaited his arrival. Snow had scarcely entered the cabin before one of the Chilenos snatched the gold dust from his belt, while the others attacked him with knives. Severely wounded, with extraordinary effort he reached the opening in the tent and called for help. His cries were heard by some men working at a distance of two hundred yards from the cabin; the Chilenos fled as soon as they saw their failure. Snow survived his injuries but a short time. Search was made for the Chilenos, and two of them were subsequently captured and taken to Shaw Flat, Snow's late residence, where trial by the people awaited them. Although the road in that direction was thronged, there was no extraordinary excitement. It was noticed that most of the miners carried double their usual arms, and about them was an air of quiet determination not favorable to the assassins. Two juries were impanelled, one for each case; evidence was brought up of such convincing weight that each jury unhesitatingly pronounced a verdict of guilty. The younger of the two, Antonio, had been identified by Mr Snow, in his dying breath, as the man who held the gold dust while the others were stabbing him. Antonio confessed that he had been aware of the intentions of his comrades for a fortnight, and knew of their digging the grave, but did not think he was amenable, as he did not commit the murder. The elder man

was sulky, and would make no confession; his visage, marred by crime, was indicative of the worst of passions; he was large and athletic, while Antonio was quite young and small of stature. Two other Mexicans who escaped were said by Antonio to be guilty of the murder; they, he said, had already murdered three Americans, and had planned to kill another. All these villains had lived together for some time at Dragoon Gulch.

After the verdict was pronounced, the will of the people was demanded by the chairman. In accordance with their vote the men were taken to the scene of the murder, and there on Sunday afternoon at four o'clock they were hanged, and buried in the grave they had dug for their victim. Fully a thousand persons accompanied the condemned men to their place of execution and burial.

During the same morning, at Sonora, a serious melée occurred on the street. Marshal McFarland had arrested a Chilean, and was taking him to jail, when the officer was fired on by a Mexican. The marshal returned the fire, when the Mexican rushed upon him with his knife. Again the marshal fired, and the Mexican fell dead; other Mexicans then undertook to rescue the Chilean and avenge their comrade's death, but reinforced by a constable, the marshal overpowered the party, wounding three of the assailants, and one fatally.

One Saturday night early in June five men lay sleeping in the store of Bemas and Company, at Campo Seco. About midnight eight burglars entered the store without waking the occupants. Five of them, each with drawn bowie-knife and cocked pistol, took their stations over the five sleepers, while the other three proceeded to rob the store. Presently the sleepers awoke, and were obliged to remain the unwilling witnesses of the rifling of the premises. At length, while the robbers were carrying away an iron chest, one of the men belonging to the store

managed to slip away and give the alarm. The town was raised and the robbers pursued. The chest was found about four hundred yards away, but the plunderers escaped.

One day a man of villainous aspect dropped upon Oregon Bar. He said his name was Walden; that he was without money, hungry, and thirsty. The miners gave him food and drink, and after lying about the place for a day or two he departed. No sooner was he gone than the camp doctor missed from his cabin a gold-dust bag containing two hundred dollars, and some fresh meat cut ready to stew for dinner. The vagrant was instantly pursued, brought back, tried, and sentenced to be hanged; but as there was positively no testimony against him, not even sufficient to hang a man already condemned before trial, it was tacitly understood that the man should not be strangled to death, but only choked into a confession. Walden, though he swore he stole nothing, apparently did not object to be hanged, and indeed he nearly brought on his own death, for making a desperate kick at the bungling miner who adjusted the rope in such a way as to hurt his neck, the other foot slipped, leaving him dangling. Before the miners could cut him down life was nearly extinct, but by strenuous efforts he was resuscitated. The man would confess nothing, and either more testimony must be obtained or he must be discharged. A happy thought struck the doctor. Administering to the culprit a powerful emetic, soon there was brought to light pieces of meat, which the doctor thought on a pinch he might swear to be the same stolen from him. After a little more choking, however, Walden was liberated. As he proceeded on his way he was narrowly watched, the miners thinking if he had really stolen the gold dust he would take it from its place of concealment and carry it away with him. But the man walked straight along the road, turning neither to the right hand nor the left. The miners concluded to make

one more trial before letting him go, and if possible frighten him into a confession. Coming up to him they told him they had found some fresh evidence, and that he must come back and be hanged. "Well," replied Walden, "hang me if you want to, but do it speedily and respectably, without humbug, harangue, or torture." Finding him so much more ready to die than to confess, they told him he might go. "Then," said Walden, with the most perfect nonchalance, "give me something to drink, and trouble me no more!" which was done.

Sunday morning, the 29th of June, a young man entered a complaint to the sheriff at Sonora that, while in the house of a Mexican woman, another man wrenched from him his pistol, struck him over the head with it, and then snapped it at him. The pistol missing fire his life was spared. The sheriff and his deputy proceeded to the house and searched it, but finding no one there they started to go, when on looking under the bed they discovered the man, covered with clothes. He was armed with two revolvers, a double-barrelled gun, and a bowie-knife, only. Dragging him forth they looked at him, and finding the resemblance to the description of one of the Campo Seco robbers so striking, they committed him to prison, sent word to that place, and soon he was identified.

The prisoner's name was David Hill. Next day he was taken by the people to Campo Seco, and tried and condemned to death. It was agreed that the execution should take place in an hour and a half. Meanwhile, as the prisoner expressed a wish to make some disclosures, a committee of five was appointed to attend him for that purpose, who soon reported that they deemed the proposed confession of sufficient importance to delay the execution till the next day, which proposal was acceded to. The confession was made as promised, and it led to the arrest of others of the gang. They then proceeded to execute the

sentence which had been pronounced upon him. "About six o'clock," says the *Sonora Herald*, "Hill was led forth to execution. An immense number of accomplices and other villains had collected from various camps. After the prisoner was placed upon the stand he made a few remarks, describing his life as one of crime, and warning others against following his course. He also said that he had robbed and stolen, and done other acts of crime, but had never shed blood, and he threw himself upon the mercy of the people. The question was then put, Shall he be hanged? A large number answered ay, but an equal number responded in the negative. Immediately some hundreds of pistols were drawn, and a universal stampede occurred. Horsemen plunged into the crowd and over them, and the people ran in every direction. Order being partially restored, several persons spoke for and against the execution, until at length George Work arrived by himself and asked to be heard. He then pledged his own life that the prisoner should be forthcoming at the district court if they would deliver him into the hands of the civil authorities. His remarks were responded to by cries of 'Thornly!' 'Thornly!' In the excitement the prisoner was taken from the stand, his hands all the while pinioned behind him, and he was thrust into a wagon, which was immediately driven off at a rapid rate for Sonora. The sheriff and one other person were also in the wagon, and several others accompanied them on horseback. News of the result having reached here shortly after the rescue, Mr L. D. F. Edwards, accompanied by E. Lindberg, with a gong, passed through the city, and called a meeting of the people instantly in front of Mr Holden's store. Mr Edwards then addressed the crowd in a short but very energetic speech, referring to the escapes of criminals heretofore, and the danger of our citizens while such thieves and rascals were permitted to escape. He proposed to take the prisoner as soon as he might arrive in town and hang

him. There was not a dissenting voice. The crowd then prepared with weapons to meet the sheriff and the prisoner at the entrance of the city. They came in a wagon, with two persons alongside on horseback with pistols drawn. But all was of no avail. The men in that crowd were not to be frightened. They followed the wagon, driving at a rapid rate, until it struck against a post, it being dark. George Work then jumped out with the prisoner, holding him by the collar, and both ran at full speed for the jail, plunging through the arroyo, while the crowd behind were shouting, 'Stop him in front! We are afraid to shoot lest we may kill our friends! Stop him in front!' Mr Lindberg soon caught the prisoner behind, and hung on to him, compelling Hill to drag him along, and thus impeding Hill's progress. Colonel Cheatham, also, all praise to the man, ran ahead at full speed to the jail, and planting himself before the door, cocked his revolver, and as George Work and the prisoner came running up, he placed one hand on the prisoner, and presenting his pistol toward George, said: 'George, you have a pistol and I have a pistol; yours is cocked, and so is mine. Blow away! I can kill too—but let this man go!' Others by this time came up, and one party taking George, another the prisoner, no shots were exchanged, and the rescue was made. Two persons threw a rope over the prisoner's neck, and away he was led to execution. The place selected was the limb of a tree behind the El Dorado. A minister was requested, and fifteen minutes allowed, the prisoner being surrounded by a ring of firm men, who were cool and determined in the work before them. A large crowd was gathered round; but all were still as death. The fifteen minutes having expired, the signal was given, and in an instant the wretched man was hanging by the neck. There was scarce a struggle. The crowd were deeply impressed, but all were satisfied of the righteousness and necessity of the punishment. All through the city, the

rowdies, men who live sumptuously and yet do no work, men who are marked, and against some of whom there are more than suspicions of guilt, were solemn and subdued. Two or three might be seen in a squad, in various places, talking softly, and evidently alarmed for their own safety. We say, keep the halter ready, and use it whenever one is caught, be he American or foreigner. We glory in the fact that American justice is dealt out to all alike. Hill was from Cortland county, New York. Among the last words uttered by him were that his confession was true, and the several persons implicated by him were guilty as he had described."

Sonora at this time was one of the largest and most thriving towns in the southern mines. They were a rioting, roistering crew, and the people of Columbia, near by, were not far behind them. Population there was extremely mixed, and the Mexican element, largely infused from the first, tended in nowise to allay eruptions. But while there were scores of hanging scrapes before this in the mines, it was not until midsummer, 1851, that San Francisco awoke to her high privilege.

CHAPTER XII.

THE BURDUE-STUART AFFAIR.

My life is one demd horrid grind.
Nicholas Nickleby.

On one of the principal thoroughfares, and in one of the most central business localities in San Francisco, that is to say on Montgomery street, one door from Washington, was situated the dry-goods house of C. J. Jansen and Company. The firm was highly respectable; their business was large, and their dealings fair. The senior partner, Mr Jansen, was a man of slight physical build, but intellectually strong, and though of somewhat grave demeanor, his warm heart and unobtrusive ways had won him a host of friends.

American merchants devoted more time to business then than now; in California they confined themselves more closely than elsewhere. All who had come hither must lay the foundations of fortune, and each was eager to outstrip competitors and occupy a front position. Furthermore, social intercourse offered few attractions to minds saturated with such ambition; and public affairs, which, through neglect on the part of good men, had fallen into the hands of low foreigners and professionals, were repugnant to all honest, high-minded citizens. Hence it was that the partners of large firms were found at all hours of the day attending to business, waiting personally on their customers, and at night writing up their books, often cooking, eating, and sleeping on the premises.

About eight o'clock in the evening of February 19,

1851, a man entered the store of Mr Jansen and began to examine the goods. Sliding noiselessly about, he looked at hats, shirts, and overalls, meanwhile watching narrowly the door, and taking in the general situation.

There was nothing peculiar in the appearance of the man. In those rough days, and in the absence of refining woman, few were very particular about their dress, and those few were not of the better sort. In the mines white starched linen was the garb of vice; 'biled shirts' covered the black hearts of murderers and the soiled character of gamblers, saloon-keepers, and pettifoggers. Honesty throve in coarse woollen, and often under the ragged red shirt were belted hundreds of dollars in gold dust, the result of sweating toil; therefore it was the most difficult place in the world to detect shades of character in dress. Dress could be so easily assumed without exciting suspicion, for in the multitudinous changes of place and occupation everybody was throwing away his old garments and putting on new.

Some of the streets of San Francisco were at this time dimly lighted; others were not lighted at all. It had been raining a little during the evening, and the bright blaze from the chandeliers of gambling-saloons which poured upon the miry unpaved streets rendered the surrounding darkness only more opaque. Nevertheless it was yet early, and business men had not closed their doors for the night.

Mr Jansen was alone in the store when the customer entered. The man's face was covered with thick mustache and whiskers; he had on a gray coat and broad-brimmed hat, and acted as if slightly intoxicated. At length stepping toward Mr Jansen, who was back at the desk, he said he wanted to buy a dozen blankets.

Mr Jansen moved forward and laid his hand on a pile of colored blankets, when the man said: "No, white."

Just then another man entered the store and also asked for blankets. He was taller than the other, was partially muffled in a cloak, and wore a hat pointed in the crown. The room was fifty feet long, and was lighted by one candle only which stood on the desk. The tall man did not enter more than twenty feet from the door. While Mr Jansen was stooping to get the blankets, the tall man cried "Now!" Whereupon the short man struck the store-keeper senseless with a slung-shot, and the other rushing forward, both beat him on the head and stamped upon his breast until they thought him dead, or at least sufficiently at rest to give them no further trouble. Then they opened the desk, and taking what money they could find, about two thousand dollars, quickly fled.

From the time the first man asked for blankets the whole affair did not occupy three minutes. At length Mr Jansen so far recovered as to crawl to the door and give the alarm. Theodore Payne, whose store was then opposite, and who had been waiting for Mr Jansen to accompany him to dinner, as was his custom, immediately ran to his assistance, but the robbers had made good their escape. The authorities were notified of the circumstances; the appearance of the men was described by Mr Jansen, and a thorough search instituted.

It happened that at this time the police were in search of one James Stuart, who was charged with having murdered the sheriff of Auburn, and had escaped jail two months before at Sacramento, where he had been confined awaiting trial. Thursday, the day after the Jansen robbery, a man was arrested who gave his name as Thomas Burdue. He had a long story to tell about his departure from Sydney, leaving there his wife and children, and coming to California. Unable to find employment, he went to the mines, but there met with little success, scarcely taking out

gold enough to buy him food. For several months he was prostrate with fever, and but for the attention of kind-hearted comrades would have died. But saddest and strangest of all, he had been persecuted to the verge of insanity by the hounds of the law. Thrice had he been arrested for crimes which he never committed; once he escaped, but twice, at different times and places, he had been tried, convicted, and barely escaped hanging, and yet he was as innocent of crime as any man in California.

It was a good story, too good, indeed, for belief, and had been well told. As usual in such stories, part of it was natural enough, but part of it was of so startling a nature that the wonder was how the prisoner thought any one should be so credulous as to believe it. No, Thomas Burdue was but one of half a dozen aliases of which James Stuart was the real name, so every one believed; and further, he was no other than one of those, the shorter of the two, who assaulted Jansen the evening previous. On Friday, the 21st, while deep in the fascinations of a strap game on Commercial street, another suspected person, named Wildred, who corresponded in appearance to Mr Jansen's description of the tall robber in the cloak, was apprehended and placed in confinement.

Throughout the entire community there was the greatest excitement. Crowds gathered round the building where the prisoners were confined, and threats were made to take them out forthwith and hang them.

There was no question in the minds of any that these were the true offenders. About noon on Saturday they were taken from the station-house by the marshal, and under escort of a strong police force were conducted to the residence of Mr Jansen, who was lying ill of his wounds and unable to attend court. Mr Jansen was sworn, and while his testimony was being taken Wildred was brought in. Jansen recognized him as the taller of the two men; he would not

swear positively, still he was sure this was he of the cloak and pointed hat. After further testimony was taken Stuart was introduced, and Mr Jansen swore that, to the best of his knowledge and belief, this was the villain who struck him down. When Wildred's cloak and Stuart's hat were on, Jansen said he could not imagine a closer resemblance.

On their way back the prisoners were followed by a mob, who cried: "Hang 'em!" "Lynch 'em!" And once, while crossing the plaza, a rush was made for Stuart, who appeared to be the more obnoxious of the two, from the fact of his having committed the murder at Auburn. The attempt to seize him, however, failed, and the two men were again safely incarcerated.

At two o'clock the same day they were brought before Justice Shepherd for examination. Hall McAllister appeared for the prisoners, and H. H. Byrne for the people. After the reading of Mr Jansen's deposition on behalf of the prosecution the defence was opened. John Wilson swore an *alibi;* swore he was playing cards with Wildred at a gambling-house, corner of Commercial and Montgomery streets, from half-past seven till ten o'clock, and that during that time Wildred had not left the room for a moment. He said he had known Wildred for six months; that he was a respectable person, and a man of family. S. J. Marks also swore that he saw him there.

Scarcely one who heard this evidence believed it true. The court was now adjourned till Monday. At the time of adjournment the room was packed with people, and round the city hall, while the examination had been going on, were gathered more than five thousand men.

Scarcely had the judge announced adjournment when the crowd raised the cry, "Now is the time!" and rushed upon the prisoners. Great was the uproar which followed. Chairs, tables, and railings gave way before the infuriated populace; Stuart was seized

by one and Wildred by another, but the assailants were beaten off by the sheriff and his assistants. The Washington Guards, whose armory was next door, then rushed to the rescue of the prisoners, and the crowd was driven from the court-room. The prisoners were conveyed to the judge's private room, and the Guards returned to the armory amidst groans, and hisses, and cries of "Shame!" "Shame!" The people were then addressed by several of the most respectable citizens; they were urged not to act rashly, and quiet was at length restored.

As night came on, the numbers about the court-house increased to six or seven thousand. Although there was great excitement, order was maintained, and there was no further attempt at violence. It was not a mob; it was a movement of the people, made not with the object of interfering with justice, but to assist justice. The impromptu meeting was organized, and W. D. M. Howard called to the chair. A committee was appointed to see the prisoners properly guarded during the night, and to report at a meeting to be held on the plaza next day at ten o'clock. The crowd then quietly dispersed.

At the meeting next morning which numbered eight or ten thousand persons, majority and minority reports were read—the first as follows: That they recommend to the citizens of San Francisco to proceed forthwith to appoint a committee of thirteen citizens to act as judge and jury, to proceed to the trial of the suspected criminals at two o'clock that day. The said committee to act in conjunction with the court if the court be willing; if not, to proceed to trial by themselves; they would recommend also that proper counsel be assigned the prisoners, in case they have none already engaged. The minority of the committee, through Samuel Brannan, recommended immediate punishment. "Why should we speak to juries, judges, or mayors?" cried Sam, in angry perspiration. "Have we not had enough of such

doings the last eighteen months? It is we ourselves who must be mayor, judges, law, and executioners. These men are murderers and thieves; let us hang them!" Meanwhile printed bills had been posted about the streets, which read as follows:

"Citizens of San Francisco! The series of murders and robberies that have been committed in this city, without the least redress from the laws, seem to leave us entirely in a state of anarchy. When thieves are left without control to rob and kill, then doth the honest traveller fear each bush a thief. Law, it appears, is but a nonentity, to be scoffed at; redress can be had for aggression but through the never-failing remedy so admirably laid down in the code of Judge Lynch. Not that we should admire this process for redress, but that it seems to be inevitably necessary. Are we to be robbed and assassinated in our domiciles, and the law to let our aggressors perambulate the streets merely because they have furnished straw bail? If so, let each man be his own executioner. Fie upon your laws! they have no force. All those who would rid our city of its robbers and murderers will assemble on Sunday, at two o'clock, on the plaza."

"We are here without jails," says the *Herald* of February 22d, "without penitentiaries, and without a police sufficiently strong for the circumstances; and conjoined with these deficiencies we have a bankrupt city and an incompetent council. On whom must we depend for relieving the town from the desperate and abandoned scoundrels who now infest it? There is clearly no remedy for the existing evil but in the strong arms and stout souls of the citizens themselves. But in order to be strong we must be organized, for the enemy we have to deal with is well drilled and disciplined. It behooves us, then, to take some steps for concentrated action in order to put a stop to the dark and atrocious crimes committed in our midst. Let us then organize a band of two or three hundred Regulators, composed of such men as have a stake in

the town, and who are interested in the welfare of the community. The very existence of such a band would terrify evil-doers and drive the criminals from the city. If two or three of these robbers and burglars were caught and treated to lynch law, their fellows would be more careful about future depredations."

After speaking of the custom of the British ministry to resign their position when one of their leading recommendations is defeated in Parliament, which is a sure indication of lack of confidence, and recommending California office-holders to do likewise, the editor of the *Alta California* of Sunday morning goes on to say: "With one consent the people have taken into their own hands the adjudication of law and justice, because they knew no confidence could be placed in our tribunals. And why has the community come to this conclusion? Simply because our courts, instead of being a terror to evil-doers, have proved themselves the protectors of villains, and thus encouragers of crime.

"This is a hard accusation, but it is true. There can be no doubt that in California five hundred murders have been committed. And yet, with enactments defining the crime of murder and affixing the penalty of death for the crime on our statute-books, not one single offence has been punished by these courts. Every murderer who has passed through the mummery of an examination or trial has been let loose upon society again, with the endorsement of the court upon his character that he is not guilty. Thus he has been made current coin of the community, while before he was at best but bogus in public belief, even if suspicion alone rested upon him. Courts have thus gendered crime by nourishing the criminal. It will not do to tell our people that this utter impunity has been the result of causes beyond the court's control. No one will believe it; no one ought to believe it, simply because it is false and the people know it to be false."

Like many others, Mr William T. Coleman had been attending to business up to Saturday night, and although interested in current events had given them no special attention. Wending his way Sunday morning after breakfast toward the old Graham House, corner of Pacific and Kearny streets, in the basement of which the prisoners were confined, he saw in the faces of the citizens bent in that direction unmistakable evidences of anger, which as he walked became somewhat contagious. Considering the possibility of a rough turn in affairs before the day was over, in which perchance he might participate, the thrifty young merchant returned to his room, laid aside his Sunday suit, and put on plainer apparel. When he reached the scene of action, the mayor from the balcony was urging the people to disperse, and proffering the strongest pledges that proceedings in this trial should be prompt and decisive. Others spoke in the same strain.

It soon became apparent to Mr Coleman that these speeches tended to irritate rather than to allay the excitement. Some laughed at promises; others remained sullenly silent. Many had their small-arms, and from almost every eye shot angry impatience. Though without leadership, without concert of action, the heterogeneous throng seemed possessed of a common purpose. There appeared to be real danger that this sense of burning wrong would break out into excess, that the people would take possession of the building and hang the prisoners.

Coleman hastily revolved the matter in his mind and determined to try a middle course. Next to downright villainy he hated mob violence. He respected the law; even the bloodless skeleton of the law he had ever regarded as preferable to anarchy. Was it not possible to organize a court of the people, *sub colore juris*, if the law would; if not, without the sanction of the law, and so maintain the integrity both of the law and of the people? He would try it.

Entering the building and making his way to the front balcony, he waited his opportunity, and just as one of the speakers closed an urgent appeal to the people to disperse, go home, and leave everything to the officers, he swung himself well out, and with a wave of the hand cried, "No! We will do no such thing! The people here have no confidence in your promises, and unfortunately they have no confidence in the execution of the law by its officers. This state of affairs has gone too far. Patience has fled. I propose that the people here present form themselves into a court, to be organized within this building immediately; that the prisoners be brought before it; that the testimony be taken, counsel on each side allotted; that the trial be begun by twelve o'clock, and conducted fairly, dispassionately, resolutely; and if the prisoners be found innocent let them be discharged, but if guilty let them be hanged as high as Haman, and that before the sun goes down!"

For an instant there was silence, breathless, almost painful; the street was waiting for the next word; but it was only for an instant. Then burst forth loud and long applause, which brought relief. The clouds cleared from men's faces. The words had been spoken which each wished to speak. In the abrasions of this impetuous society the steel had struck the flint and kindled the spark which should liberate its smothered wrath. From a thousand tongues the shout went up, "Yes; that's it!" "You are right!" "That's the remedy!" Already the great heart of that tumultuous assembly was won; now to the quieting of it. "We don't want a mob!" continued the speaker; "We won't have a mob! Let us organize as becomes men; here; now; as a committee of citizens, and insist on the right. All is ready; the witnesses are at hand; let not justice be further cheated."

The proposal was put to vote, and a unanimous 'ay' was the answer. Every good citizen was then invited to enter the building who could; the rest were

to stand without and guard affairs with patient quietude. Coleman then entered the inner hall, which was used as a court-room, followed by a crowd. Mounting a chair, he asked them to choose from among their number one who would act as judge, to impanel twelve jurymen, and select counsel for the prosecution and for the defence. He also recommended that those without should organize and surround the building, which was done. J. R. Spence was appointed judge, and C. L. Ross and H. R. Bowie associate justices. Wm. T. Coleman was called on to act for the prosecution, and Hall McAllister, Calhoun Benham, and D. D. Shattuck volunteered their services for the defence. The twelve jurymen were sworn in, and after a short adjournment, about half-past two all were ready and the trial proceeded.

Judge Shepherd entered his official protest against the proceedings, but no attention was paid to him. Coleman opened the case briefly for the people and was followed by McAllister. The latter asked that a *nolle prosequi* should be entered, and remarked that it ill became men to trample underfoot the high dignity and sacred rights of that law the blessings of which they had all their lives enjoyed. Coleman replied that for the Roman code, and for the law as executed in France and England, and for the great lights of the law, he entertained profound respect. But while the world from time immemorial has had its just ordinances and able advocates, unfortunately there have always been parasites, men who are nowadays called pettifoggers, and they with the unworthy agents of law had unhappily brought it too often into contempt, had thwarted its wise and just designs, and thereby hazarded the lives and property of the people. It was not laws, but the criminal breach of them, that he complained of; for the vindication of the law, not for its overthrow, the people were there gathered.

Every exertion was made to calm the passions of

the multitude, and except occasional outbursts, general good order and quiet prevailed. The prisoners were kept out of court lest their presence should fan the excitement. Witnesses were examined and the case submitted. About nine o'clock the jury retired, and after a long absence returned with the announcement that they could not agree.

It was well that the bleak winds and fatigue had chilled the impetuosity of the morning, and that many had in consequence withdrawn to their homes. Nevertheless there were yet remaining those who for twelve consecutive hours had stood massed against that building waiting to see what this new-fashioned tribunal would do, and whose patience now gave way. "Hang them anyhow!" they shouted when they learned the result. "They deserve it!" But Coleman said, "No! Though I feel the mortification and chagrin no less keenly than you, and though I believe these men guilty, there must be no violence. We have done our duty; we cannot afford to make a mistake; our judgment is not superior to that of others, and we must abide the decision." The jury was discharged, the remainder of the crowd dispersed, the prisoners were left with the county officers, and remanded to jail.

During the Sunday trial W. H. Jones testified that he saw two spots of blood on Stuart's clothes, one on the shoulder and one on the elbow. McGilbert recognized Stuart as an old offender; he had seen him at Sacramento and elsewhere, and knew him to be a great scoundrel. James A. Glen testified that the prisoner was once arrested at Foster Bar for stealing four thousand dollars, and that he narrowly escaped hanging by the people. Mr Jansen was again asked to say whether these were the men who assaulted him, and he answered, more positively than before, that they were; that he was undecided at first, but now he was sure. Many more bore witness on the one side

and on the other, some affirming that Stuart was a good man, and was somewhere else when Jansen was struck, and others as sure that he was a notoriously bad character, and was at or near the spot at the time.

After the jury had retired to deliberate, a person appeared before the court who wished to testify that Stuart was with him on the night of the assault from seven till eleven o'clock, but it was decided that his evidence should not go to the jury.

George E. Schenck was a member of this jury; and in a lengthy and clearly written dictation upon the subject he tells me of the doubts he entertained; how Jansen was not positive as to the identity of the men, and how the prisoners were not present at the trial, being kept in the marshal's room, on the second floor, under the cots on which the officers slept, and there concealed by blankets hanging over the sides of the cots to the floor. Thence during that same night they were taken elsewhere, for fear of the multitude, and secreted for several days. "Two others coincided with me in regard to it," says Mr Schenck, "and we agreed to bring in a verdict that we could not agree. There were nine for conviction and three who entertained doubts. This was about nine o'clock at night. On our coming into the court-room and announcing this fact, the outside crowd broke in the windows, rushed in at the door, broke up the railing round the bar, and were about to make an attack on the jury, when the jurors drew their revolvers, and rushing back into the jury-room there remained until the excitement had somewhat abated."

There were several impromptu meetings in various parts of the city on this Sunday. On Montgomery street a red-faced, shock-headed judge was holding forth to a knot of listeners, and denouncing in strong terms the lawless proceedings of the day. "Law! law! talk of law!" exclaimed the deriding crowd. "We get heaps of law, but little justice. All that law in California seems to be good for is to empty

money from the pockets of the people into the pockets of the judges." Then came hootings. "Water lots!" yelled one; "Colton grants!" "Straw bail!" "Boiled eggs for the lawyers and acorns for the people!" shouted others. And when a strong clear voice rang out, "Tar and feather the old fellow!" and the judge saw in the many eyes directed toward him a new and not assuring light, he thought it best for him to go while he could. So he moved along.

As John Wilson, who testified to an *alibi* on behalf of Wildred, was passing down Long Wharf on Sunday, he was recognized by the populace, who raised a cry against him. "There goes one of 'em!" they shouted. "Stop the perjurer!" "Duck him!" "Throw him off the dock!" Frightened half out of his wits, he made good use of the remainder, for clearing the crowd at a bound or two, the fellow ran like a deer up Commercial street to Montgomery street, where turning the corner he darted into a store, slammed the door after him, shot out through the back way, and hid himself under a pile of empty cases, thus eluding his pursuers.

Charles Duane, who was at the time on trial before the recorder for shooting one Amade, was surrendered by his bail and committed to prison. The fact was, Duane could sleep better under the guardianship of the law than when left exposed to the fury of the mob. Whenever the people became excited the prison was the murderer's haven of rest; then the law was his best friend.

The people plumed themselves on their good behavior. Says the *Daily Balance* of Monday morning: "For two days the lives of two human beings, the majesty of the laws, and the peace and character of our city, have hung on the will of an illegal assemblage of the people. Yet, thanks to the good sense, the love of justice, and the habit of self-government which characterize our American community wherever it has not been subjected to the deteriorating influ-

ences of great cities, they have passed through the crisis unharmed. It is a most consoling and gratifying result, which every lover of his country and of his kind must regard with satisfaction and with thankfulness." "It was one of the most impressive demonstrations of the power and majesty of the people we ever looked upon," says the editor of the *Pacific News*, writing Monday morning. "As yet no murderer has been punished under our laws. Hereafter no criminal can go free except at the risk of anarchy, from which we have escaped only by a forbearance on the part of the people beyond all praise." "In no city in the world, perhaps, save this," wrote the editor of the *California Courier* on Tuesday, the 25th, "could a community be excited and aroused so violently without committing some excesses; yet our people throughout Saturday and Sunday committed no breach of the peace whatever. The feeling and interest manifested arose from an intelligent and deep-seated conviction that these men were two of an organized gang of desperadoes and villains who have been at all hours of the day and night committing outrages upon the lives and property of our citizens. Also because it was believed they would be sworn through the courts by their confederates. Our people, under the circumstances, have shown great forbearance, moderation, and respect for the laws. They have now, however, made up their minds that there shall be no more straw bail taken, and no more false swearing from suborned witnesses to shield and protect the guilty in their outrages."

One of a thousand similar speeches made on the Sunday of the trial is given by the *Evening Picayune* of Monday: "While mingling with the crowd before the City Hall yesterday afternoon, a tall, gaunt individual, with black eyes and an abundance of hair, broke out indignantly after this fashion: 'Cuss me, what a country this here is for regulating things! Where I come from those chaps in thar would have swung long

ago, and no speechifying and humbugging thought of. Here I was some two or three hours yesterday, and nothin' done. Well, I come here accordin' to appintment at nine o'clock this mornin', to see the thing done all on the square, and here it is nearly sundown and nothin' done yet! Cuss me, I have helped swing nine redskins and three Mexicans in one forenoon, and no damn fuss made about it by any one. Cuss me, but I'm clean sick of this country, where they let cussed red devils and white wolves run over them without so much as slipping the wind of one of them when he's caught! It's a weak country—an unnat'ral place, and fit only for greasers!' As he concluded speaking, his small black eyes glanced contemptuously about him for a moment, when he elbowed his way out of the throng."

Thus the people's tribunal failed to convict these men, and left them to the officers of the law. Wildred, with seven others, broke jail and escaped. Stuart was tried by the district court, found guilty, and sentenced to fourteen years' imprisonment. All the money in his possession was taken from him and given to Jansen.

Before the sentence of the court was executed, however, Stuart was taken to Marysville and there arraigned for the murder of Moore, the sheriff. At this trial the testimony as to Stuart's identity was conflicting. There was no doubt as to Jim Stuart being the murderer of Moore, but while many witnesses for the prosecution positively identified the prisoner by a dozen prominent features, yet there were others who as positively asserted that he was not the man.

I herewith give what one of the attorneys in the case at Marysville says about it:

"Witnesses for the prosecution were generally bold and entirely positive; but the witnesses for the prisoner, with the exception of Judge Stidger and B. F. Washington, appeared to feel uneasy, and often hesitated in their testi-

mony. Some three or four witnesses testified that they had worked with Jim Stuart at Foster Bar, and had known him well before he went there. They had eaten with him at the same table often, and had played cards with him; and one or two testified they had slept with him. They testified that Jim Stuart was of the same height as the prisoner; that he had curly hair, like him; that he was slightly bald on the top of the head, like him; that his actions were like his—the court having made the prisoner stand up several times so that the witnesses could see him better than when sitting; that his voice and accent were the same, being English; that the color of the eyes and hair were the same; and that Jim Stuart had a stiff middle finger on the right hand, and a ring of Indian-ink round one of his fingers, and marks of Indian-ink between each thumb and forefinger; and further, that Jim Stuart had a rather long scar on his right cheek. The jury then examined the hands of the prisoner, and there was found a ring of Indian-ink on one of his fingers, several figures or spots of the same ink between the thumb and forefinger of each hand; and the right middle finger was not stiff, but had had a felon under the nail of the corresponding finger on the other hand, which had given it a short but stubby appearance, heavier at the end than elsewhere, the nail of the finger being broad and thick, and bending inward over the end of the finger. This was startling to the defence, indeed. It remained now to see if the prisoner had a scar on the right side of the face. His face could not be satisfactorily examined, as it was almost completely covered with a short growth of hair. The court ordered the prisoner to be shaved before being brought into court next morning, and on being examined a scar about the length of the one described by the witnesses was found, commencing on the edge of the jaw on the right side and running down the neck. The witnesses now seemed confident, and said that they had no doubt that the prisoner was Jim Stuart. On a cross-examination they said, in a positive and unhesitating manner, that it was not possible that they could be mistaken in their opinion that the prisoner was Jim Stuart. Colonel Prentiss swore positively that the prisoner was Jim Stuart, and that he could not possibly be mistaken. Some four or five witnesses swore positively as to the identity of the prisoner, and that he was Jim Stuart beyond a question; each giving some one or more new reasons for his belief. No witness on the side of the prosecution would admit a probability that he could be mistaken in the prisoner; that he certainly was Jim Stuart! On the side of the defence, Judge Stidger swore positively that the prisoner at the bar was not Jim Stuart; that there was a strong resemblance between Jim Stuart and this man, but that Jim Stuart was at least two inches taller than the prisoner; that their eyes were different in color; that the expression of the eyes of the two men was different; that Jim Stuart was much quicker in his motions than the prisoner; that Jim Stuart's motions were very uncommon, being as quick as those of a wildcat; that he had always head erect, much more so than the prisoner, and that the real Jim Stuart was straighter in his personal formation, and had a different complexion. This witness testified that Jim Stuart was often arraigned before him as a judge at Foster Bar, and that his recollection of him from this and other facts was clear and distinct. Stidger also testified that Jim Stuart had a stiff middle finger, but not such a one as the prisoner had. B. F. Washington, who was

at the time recorder of Sacramento City, testified that he knew Jim Stuart from the fact of his being a notorious character in that city, and from the fact that he had often been brought before him on different charges. Mr Washington said that the prisoner at the bar was not Jim Stuart; that there was some resemblance, but they were to his eye quite different men; that Jim Stuart was an inch and a half or two inches taller than the prisoner. Other witnesses for the defence testified to about the same facts, but they seemed to be uneasy, in some trepidation, and acted in a manner most provoking to the defence. One witness on behalf of the prosecution, a Mr Thompson, testified that the prisoner, about the date of the alleged murder, came into a camp on Slate Range, in said county of Yuba, on horseback, and seemed to have plenty of money, and was betting with the boys on a string-game which he played very skilfully. That he had a conversation with the prisoner in the jail, and that the prisoner admitted that he was at Slate Range at the time mentioned, but denied that he was Jim Stuart."

From the report of the trial at Marysville we are informed that when the case was committed to the jury, eight were for conviction and four for acquittal. Finally the jury, after deliberating two days and one night, agreed on a verdict of guilty. While the verdict was being announced the prisoner did not manifest the least trepidation or excitement. An eye-witness says: "I could not notice the least change of a muscle in his face, and I must say that the appearance of his face was far from being that of a hardened villain listening to the fiat deciding his fate, for his countenance was mild, calm, and serene."

When his counsel visited the unfortunate man in his cell two hours afterward, he clenched his hands, and raising them toward heaven reiterated his solemn protestation of innocence. He further said that if he should be offered a million of dollars and his liberty he could not tell where Mr Jansen's store was in San Francisco. He spoke of his narrow escape from hanging at his previous trial; his friends were afraid to stand by him, as their allegiance would subject them to abuse and maltreatment as men of Sydney. Abandoned by his comrades, cursed and hated by those who believed him a criminal, life was no longer endurable, and he was willing to die. His only request was that letters should be written to his poor wife in Sydney

and his father in England, informing them of his ill-fate and of his innocence.

The following letter, given verbatim, written immediately after his trial at Marysville, and while under condemnation of death, displays more vividly than can any words of mine this strange freak of justice:

MARYSVILLE JAIL, July 4, 1851.

To John Goff—DEAR SIR: I have had a trial which lasted five or six days, and the jury was twenty-four hours in deciding my fate; and had they not had a prejudice against the country I came from it might have turned out different, but as it was they found me guilty, and my sentence is death. The law allows me thirty days before the execution is put into effect. I forgot to say, though I was found guilty, the jury remarked that they had doubts upon their minds; but the judge said that this doubt would assist me very little. I had more evidence in favor than against; in fact I had the judges from Sacramento, who tried this said Stuart several times, also the policeman who took Stuart into custody; they both swore positively that I was not Stuart. And beside these men, I had from fifteen to twenty more who knew Stuart well, and they also swore positively that I was not Stuart; and moreover all of these persons were strangers to me. The evidence here went to show and prove that Stuart was two and a half inches taller than me. The policeman who first took me in charge for Stuart never appeared against me. Had I of had Mrs Strytum, the landlord of the house I kept, and Mrs Morris, and yourself, it might have turned the case in my favor, as this murder was perpetrated on the 7th of December, and you are well aware that I was in San Francisco a long time before and a long time after. I have since been informed that no matter what evidence I have, the prejudice is so great against the people that come from Sydney that had I of had these witnesses I have named it would of been no use. Mrs Eliott was here to prove that I came in the same ship with her from Sydney, and it so happened that there was a witness also here to prove that this same Stuart came in steam-vessel from Panama with him, in same month as I came from Sydney. He also swore to Stuart's height, as being much taller. There was several parties from Foster Bar, who arrested Stuart for a robbery he did there; they also swore I was not Stuart, but all of no use; and one of these persons was the judge who tried Stuart on Foster Bar twice, and worked in the same company. Fletcher and Benson I got subpœnas for, but they could not be found. Henry Davies called upon me, and promised to stay to my trial, but on account of its being put off for a few days he left and I have not seen him since. Understand me, I don't mean to say that I had no evidence against me, because I had many that swore I was Stuart; but most or all of these persons only knew Stuart slightly, where those that swore I was not him, all said they knew him well. I have no more to say at present touching the case. I must now ask you as a very great favor to come up and see me as soon as possible, as I cannot say how soon I may be launched into eternity, innocent. When you come up, please

bring any letters you may have for me. My dear Sir, when I ask you this favor, I ask you not to delay, as it will be the last time you will be able to see me, and for God's sake, and the respect you have for me, don't fail, as I have a deal to say respecting my poor wife and friends I have left behind.

I can assure you it is very hard to be placed in this position, but at the same time I keep up my spirits as well as I can. I now say again, in the name of God do not neglect me, but if possible come up as soon as you receive this.

Give my respects to all my friends in San Francisco, and receive the same yourself, from

Yours truly, but very unfortunate,

THOS. BURDUE.

P. S.—I have not forgot the day I entered your house after being at the mines for five months working hard, and dirty as miners are, and your boy John, which is only three or four years, should recognize me.

Hear now the sequel, and note the moral. Just before the day arrived on which he was to have been sentenced, it was ascertained that this Stuart was not Stuart at all. He over whom all this temper had been spent was Thomas Burdue, an innocent man! He had never committed murder, had never assaulted Jansen, and every word of the story he had told on his arrest was true!

These facts were ascertained by the men who ere this had formed themselves at San Francisco into a Committee of Vigilance, as we shall presently see, and who rescued the unfortunate man from a felon's death on the eve of execution by the arrest of the true Stuart, to whom Burdue bore a striking resemblance. His likeness in form and feature to a villain was to him a Nessus shirt of misfortune.

Says the attorney before quoted, on seeing the real Stuart subsequently at the rooms of the San Francisco Vigilance Committee: "If ever I saw a stronger resemblance between two men in my life, I do not recollect it. But I soon noticed the distinctive differences, so minutely described in the testimony of Stidger and Washington. The real Jim Stuart who stood before me was at least two inches higher than the prisoner in Yuba county. The middle finger was the same as has been stated by witnesses, quite stiff, and his hands

much longer and more aristocratically shaped than the hands of the other. His actions were exactly those that Stidger had described, and at the least motion of any one present, his eyes, head, or body would move with the rapidity of lightning!"

Imagine the feelings of this man under his strange and varied experiences; lying incarcerated through months of long nights and wearisome days, pondering on the present and wondering what would come next; sitting in the prisoners' dock listening to those who, one after another, came forward and fastened on him crimes from the bare mention of which his soul shrank, until he began to question his own sanity and identity. Now he lay chained in a dungeon; now, under the grim shadow of justice, surrounded by eyes staring curses on him, he listened to evidence and arguments no more applicable to him than to the judge himself; and now he found himself the centre of an infuriated populace, eager to shoot, hang, or with their fingers to tear him in pieces, when, if they but knew the simple truth, they would sooner point their weapons against their own breast. The jaundiced eye sees all things yellow. While the prisoner was on trial, and strong evidence was brought against him, the people saw guilt stamped on his face; when he was proved innocent, the face shone in open honesty.

Immediately the Committee of Vigilance had found the true James Stuart, and had rescued from the jaws of death the man who been taken for him, Thomas Burdue was brought to San Francisco, and the amplest amends possible were made him. He was pardoned by the governor for crimes which he had never committed. Mr Jansen not only refunded the money taken from him, but supplemented it by a liberal addition. A public subscription was started, which resulted in substantial aid. Thus Thomas Burdue became a hero, and was lifted up—but not so high as the scaffold.

Before the legislature of 1853 a memorial was presented on behalf of Thomas Burdue, asking for four

thousand dollars, in view of the suffering and ignominies of a nine months' unjust imprisonment. Besides contracting disease and undergoing the horrors of the death sentence for another's crime, his entire means and all he could borrow from his friends, amounting to nearly the sum asked, had been expended in procuring necessary counsel and witnesses, in consequence of which his wife and children were reduced to beggary. The memorial was referred to the judiciary committee, of which J. W. Ralston was chairman. The following lucid and logical reply was made: "To grant the prayer of the petitioner would establish a precedent which, if carried out in all cases of the kind, would more than exhaust the entire revenue of the state. We know of no legislative precedent for such appropriation. The most that has been done was to refund fines illegally collected from innocent parties, leaving them responsible for their own expenses. In society it too often happens that the innocent are wrongfully accused of crime. This is their misfortune, and government has no power to relieve them. It is a part of the price each individual may be called on to pay for the protection which the laws give. He should rejoice that the laws have afforded that protection to him when wrongfully accused, rather than seek remuneration for his expenses from the government whose justice has protected him from ignominious death." That is to say, stripped of verbiage, To correct the errors of law would cost more than all the expenses of government combined. We have never known a legislature to right a wrong done by the law to a citizen, therefore we will not. Prosecution may be the price of protection; and fortunate is he who is not done to death by laws established to save his life!

CHAPTER XIII.

ORGANIZATION OF THE SAN FRANCISCO COMMITTEE OF VIGILANCE OF 1851.

The gods
Grow angry with your patience: 'tis their care,
And must be yours, that guilty men escape not:
As crimes do grow, justice should rouse itself.

Ben Jonson.

CRIME was emboldened rather than intimidated by recent affairs. While the Burdue trial was in progress, the drug-store of Bache and Grotjan, corner of Washington street and Portsmouth Square, was entered and robbed; a murder was committed at El Rincon; on Prospect Hill a woman was robbed of five hundred dollars and two gold chains. Two men making their round of pillage were caught with articles taken from the stores of Kettell, Mahony, and Company, and Middleton and Hood; one of them was severely punished by the people and the other escaped. At the time and thereafter, both in the city and country, slung-shots, knives, and pistols were employed more liberally than ever.

Rascality assumed the heroic. Aside from the seductive charm of illicit gain was it not a grand thing to be the central figure of such an assemblage as that of the before-mentioned Sunday in February? For less than this men toil in their life-long wearisome ascent, demagogues weave their web of state-craft, and soldiers fight their battles. When men are so eager by hook or crook to attract the notice of the world, may not the chivalrous and accomplished villain achieve renown after his own fashion?

After all, the difference between war-butcheries and highway-butcheries is more ideal than real. War is the standing irony of humane justice. Poets call this bloody display of passion lovelier than love, wiser than wisdom, holier than religion. So burns in their heart the fire of patriotism that for opinion's sake they lay their country in ashes, and for the love of truth resort to killing. What is truth? May men kill for pride and vain-glory and not for bread? To fight for opinion and call it fighting for truth; to war against infallibility while claiming to be infallible; strange infatuation! As though immutable truth, which is as firm as the Creator's throne, should need the puny efforts of man to establish it, and that the killing of one another should so establish it! Verily there have been in the fermentations of peoples more anomalous absurdities, more reasonless killings, than would be the achievements of villainy for fame!

Happily for individuals society puts the veto on private slaughter; happy will it be for mankind when nations eschew killing; happy will it be for morals when no longer single murders alone are infamous, and only wholesale slaughter honorable. Here in California at this time was work enough to do at all events, and that in the direction pointed out by conscience fashioned by custom. Hundreds of murderers walked from their victims unmolested, escaped to new killing. What then? Shall these go unpunished? Does not the bird Hameh, formed in Arabian mythology from the brain-blood of the slaughtered victim, cry Iskoone! give me to drink vengeance! and so pursue the guilty to the end of his career?

Following the excitement attending the Jansen outrage, as I have said, matters became rapidly worse and worse. Nothing so stimulates wrong-doing as attempting punishment and failing. In the war of good against evil defeat is fatal. One villainous success draws into its trail a hundred new recruits. For

a year previous to midsummer, 1851, again and again the public press called on the people to unite and hang the criminals. Round the sand-hills and in the hollows, as from the circling hell of Dante, there seemed to rise a silent wail of woe. The stench of natures malediet, as from the tomb of misfortune, floated over the sand-waste and filled to suffocation the nostrils of plodding virtue.

Robberies and rascalities of every kind were of daily occurrence; quiet citizens were knocked down in going to and from their business, and it was unsafe for one to trust one's self out after dark without a cocked pistol in the hand. The criminal catalogue of a week's or a month's duration would be startling. On the 3d of June occurred the Benjamin Lewis affair before mentioned. Twice his indictment by the grand jury was quashed by Judge Parsons on some technical ground, and the prisoner held for another future spasm of justice. The same night a jewelry store on Clay street was feloniously entered; also the shop of Mr Robbins, on Broadway, near Powell street. The building on the south-west corner of Kearny and California streets was fired the 5th, but the flames were extinguished before spreading. Sunday night, the 8th of June, the California-street wharf was fired. At the Blue Devil saloon on Jackson street there was a beautiful stabbing affray the 9th. The same night the house of the Reverend Prevaux was entered. Unhallowed meanness! Twenty culprits on an average now graced the recorder's levee every morning. The 12th of June Charles Hudson was knocked down and robbed of five hundred and twenty dollars in Cab alley. Saturday, the 14th, one Whitzer was stabbed by Albert C. Burney at a dance-house on Pacific street, near Dupont. Next day, Sunday, the cry of murder was raised on Virginia street, and Mr and Mrs Yates were taken in charge in consequence. At a place then rejoicing in the strongly suggestive name of Hog Valley a man was knocked senseless

and robbed on the 17th. A fire, the supposed work of an incendiary, was discovered on the 18th under a building in the rear of Jones' Hotel.

The 22d of June occurred the seventh great conflagration, involving the loss of six lives and about two millions of property. Nearly one fourth of the city was laid in ashes. After careful investigation the people were satisfied that it was the work of an incendiary. The fire originated in the dwelling of Mr Delessert. At the time there was neither fire nor servant in the house. The people were out in full force, fighting the flames and guarding property. While the flames were raging, the burglary of a jewelry store on Merchant street was attempted. That same evening N. L. Pollock was shot dead by Samuel Gallagher. A Mexican named Juan, caught stealing at this fire, was tried and publicly whipped by the people.

A *nolle prosequi* was entered by the court of sessions the 26th of June in the case of Charles Duane, the prosecuting attorney stating that the witnesses for the prosecution could not be found. It was a current practice among the fraternity, that of continuing a case until the witnesses were scattered. Two individuals, Graham and Lemon, at a loss to know whether, even in their own estimation, they were gentlemen, indulged in some general shooting on Kearny street, near the plaza, on the evening of the 30th. Unfortunately neither was killed, though the bodies of the by-standers entertained a number of their bullets.

These are scarcely a moiety of the offences committed during the month of June; include the petty crimes and misdemeanors, and the list would be increased tenfold.

Before the month opened, it was clearly apparent that the time was fast approaching when the indignation of the people must burst its fetters; the enemies of peace and honest living had filled their cup of in-

iquity to overflowing. Patience had become puerility. The question was no longer whether it was right for the people to take law into their own hands and execute justice, but whether the virtuous and orderly element in the community should have any existence at all. Over and over again the legal machinery then in operation was proved utterly inadequate to the suppression of crime; wickedness grew bolder and more rampant every day, until the simple proposition was, Shall the substance of the right-minded and industrious be forever taken to feed villainy? Then it was that a secret committee of men determined to put on armor and stand ready, the self-constituted exponents and executives of order and of law, sprung as it were from the ground.

The idea of organizing did not originate wholly with any one man or at any one time. As in every normal evolution, the development was the offspring of necessity. A thousand minds were pregnant with the thought that something must be done. Citizens talked together of it, and every new outrage added force to expression. The great law of self-protection, far mightier than written law, of its own subtle strength attracted and massed the isolated particles of society. Although it was a clear case of spontaneous combustion, there was yet an immediate agent. In a thousand places the flame of reform was ready to burst out; the first bursting was the beginning.

There had been organized late in February or early in March, among the merchants, a night patrol, of which F. W. Macondray was captain. Every man who had property to protect was invited to join the company, and contribute his proportion of time and money for the benefit of all. There were about one hundred members, who were assigned to different districts, and twelve of them were on duty four times a month, serving eight hours out of the twenty-four. Often during their meetings they discussed the necessity of organizing as a popular tribunal and as-

suming arbitrary powers. It was a consummation, however, to be deplored, and therefore to be postponed as long as possible. Of the band was George E. Schenck, who claims this as the origin of the Vigilance Committee; others, however, put in counter claims. The truth is, as I have said, this organizing for mutual safety was the act of many, who thus as it were threw up their arms involuntarily to ward off the blow aimed at society by confederated crime.

In what was then known as Happy Valley, where now is First street, near Mission, in the spring of 1851 lived James Neall, a highly respected citizen and prominent merchant. George Oakes, of the firm of Endicott, Green, and Oakes, was his neighbor. Meeting on Sunday afternoon, the 8th of June, their conversation turned on what was uppermost in the minds of both—the insecurity of affairs, and the necessity of active measures. Calm, clear-headed, practical men, both of them, they determined at once and together to call on Mr Brannan, the ruling spirit and tacitly acknowledged leader of the movement of 1851, and consult with him on the subject. They found Mr Brannan seated in his office, and near him at the desk Mr Wardwell, his clerk. Mr Brannan listened as one to whom such words were welcome. As the fire licks lovingly new fuel, so the flame already blazing in his breast received the sentiments poured into it by his visitors. After short discussion it was suggested that each then present should give Mr Wardwell the names of such citizens as were known to be in sympathy with good order, and whose discretion could be relied upon, inviting them to meet at twelve o'clock at noon the next day, Monday, the 9th, at the California Engine House, situated at the junction of Market and Bush streets, opposite the Oriental Hotel. Certain persons in the several districts of the city were requested to organize each a

local committee, of which he should act as chairman, and the duty of these committees should be to notify their trustworthy neighbors, and invite them to be present at the time and place above mentioned.

In pursuance of that action there was a large gathering at the engine-house the following noon, and the room was crowded. The evils of the times were discussed, and views interchanged as to the proper remedy. The meeting finally adjourned to assemble that night at Mr Brannan's rooms, for the purpose of organizing and defining a course of action.

Unaware of the steps which had thus far been taken, Mr A. Delano wrote two notices in the afternoon of Tuesday, the 10th, calling a meeting to be held next day at three o'clock on the plaza, and handed them in at the offices of the *Alta California* and *Courier*. He then drew up articles of association, which he called a 'Committee of Safety;' but learning from Mr Brannan Wednesday morning that an organization had already been effected, he saw that the articles which he had prepared were not needed.

Singularly contradictory were many of the statements given me by the actors themselves. I have been told repeatedly by those who joined the association on the 10th or the 11th of June that the Jenkins robbery, hereafter to be mentioned, was the act which called the organization into being, when in fact the origin of associating dated from the Sunday previous, and sprang immediately from the common conversation and resolution of the two citizens of Happy Valley. Thick black clouds, portentous of outbreak, had hung for weeks and months over the city; but the walk of Neall and Oakes to Brannan's office was the first white streak indicative of immediate atmospheric purification.

The origin of the term *vigilance committee* was

spontaneous. In the meeting of Monday night the question arose how the organization should be designated. One suggested that they should call themselves the 'Regulators,' from their determination to scrutinize and regulate the administration of justice, and so diminish crime. But the word Regulators smacked too strongly of the Hounds epoch; it was too significant of a purpose and policy directly at variance with those of the new organization, and hence was not seriously entertained. 'Secret Committee' did not suit for obvious reasons. Next was proposed 'Committee of Safety,' or 'Committee of Public Safety,' as conveying the idea of protection which the association sought to throw round every good citizen. This name found more supporters. But meanwhile the term 'Committee of Vigilance' having been suggested, it took precedence at once, embodying as it does the sentiment of watchfulness with those of circumspection, care, and protection. Hence this name was unanimously adopted, and as the expression of a unique human association shall so stand to the end of time.

At the meeting of Monday night there were present those who fully realized the responsibility and importance of the step about to be taken. Their seeming duty lay seemingly counter to the regular course of law. Plainly, they proposed to break the law, and in so doing lay themselves open to punishment by the law. In the eyes of the law they were about to become offenders of as deep a dye as any they proposed to punish, though from very different motives.

But there were also present young and inexperienced men, who did not know what they were about to do; and sage tutor to these was the whilom colonel commanding the New York volunteers, which company, as before stated, when disbanded furnished many of the ruffians then infesting the city. These mettlesome innocents the mettlesome old colonel set

about to instruct. It suited well the eternal fitness of things, that he who had brought hither New York's vagabonds should now hang them. Feelingly he spoke of his former associates, calling to mind past dangers and privations in common shared; but recalled to things present, stern duty swelled the breast well buttoned beneath an army coat, and the severest of military airs wreathed the features of the ire-illuminated face.

There were those both at this and at subsequent meetings who were more ready with their tongue than with their sword. Upon this occasion the doughty colonel concludes an address brimful of nervous energy with these words: "And mind you, let there be no skulking! Let there be no skulking now!" But when the bell summoned to actual danger and responsibility, and the more timid looked for their brave commander, he was nowhere to be found; though there was made diligent search, even to the sending to his house for him, he failed to put in an appearance. Then certain profane youth, filled with merry contempt, took from a white fowl its whitest feather, and carefully inclosing it in an envelope, addressed and sent it to the brave talker.

Very different was the conduct on this occasion of Mr Brannan, to whom the highest praise is due. Peculiar as he was in some respects, I cannot but regard his connection with the first Vigilance Committee as the brightest epoch of his eventful life; and so long as society holds its course in San Francisco his name should be held in honored and grateful remembrance. With the most cheerful recklessness he threw his life and wealth into the scale; anything and everything he possessed was at the disposal of the committee free of any charge.

The avowed object of the association was to vigilantly watch and pursue the outlaws that infested the city, and bring them to justice, through the regularly constituted courts, if that could be; by a more sum-

mary and direct process, if must be. Each member pledged his sacred honor, his fortune, and his life, for the protection of his fellow-members, for the protection of the lives and property of the citizens of the community, and for purging the city of bad characters who were making themselves odious in it.

An informal instrument was drawn up at this meeting, which signified the general purpose and course of action. This was signed by those present. Inviolable secrecy was laid on every member; unity and good faith, becoming common interests and manly honor, should characterize all their acts. Every member should act the part of city monitor; in case of disturbance members of the society should be summoned, and each subscriber promised to appear when called, and to perform service when needed.

A partial organization only was effected on Monday, but next night arrangements were perfected and future action determined. Then and there they resolved to purge the city of crime at the hazard of their lives and fortunes. Watches must be set, patrols established, and scouts sent out; evil-doers were to be hunted, and when caught, tried, fairly, conscientiously, deliberately, and if guilty punished immediately. This was the simple plan, the code of common-sense, established by these men of practical determination. There was to be no friction of unnecessary agencies in their machinery; they knew when a vagabond deserved banishment or hanging, and they knew how to banish and hang; and this was enough.

The protocol of the constitution is dated the 8th of June, at which time it was instituted and put into general effect. In the book of signers it is dated the 9th of June, at which time it was finally adopted and signed. To the constitution S. E. Woodworth is the first signature; S. Brannan, the second; E. Gorham, the third; Fred'k A. Woodworth, the fourth; Geo. J. Oakes, the fifth; and so on.

Following are the constitution and by-laws as adopted:

CONSTITUTION, 9TH JUNE, 1851.

"WHEREAS, It has become apparent to the citizens of San Francisco that there is no security for life and property, either under the regulations of society as it at present exists, or under the laws as now administered; therefore, the citizens whose names are hereunto attached do unite themselves into an association for the maintenance of the peace and good order of society, and the preservation of the lives and property of the citizens of San Francisco, and do bind ourselves, each unto the other, to do and perform every lawful act for the maintenance of law and order, and to sustain the laws when faithfully and properly administered; but we are determined that no thief, burglar, incendiary, or assassin shall escape punishment, either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of the police, or a laxity of those who pretend to administer justice. And to secure the objects of this association we do hereby agree: First, That the name and style of the association shall be the Committee of Vigilance, for the protection of the citizens and residents of the city of San Francisco. Secondly, That there shall be a room selected for the meetings and deliberations of the committee, at which there shall be some one or more members of the committee, appointed for that purpose, in constant attendance, at all hours of the day and night, to receive the report of any member of the association, or of any other person or persons whatsoever, of any act of violence done to the person or property of any citizen of San Francisco; and if, in the judgment of the member or members of the committee present, it be such an act as justifies the interference of this committee, either in aiding in the execution of the laws or the prompt and summary punishment of the offender, the committee shall be at once assembled for the purpose of taking such action as a majority of the committee when assembled shall determine upon. Thirdly, That it shall be the duty of any member or members of the committee on duty at the committee room, whenever a general assemblage of the committee is deemed necessary, to cause a call to be made by two strokes upon a bell, which shall be repeated with a pause of one minute between each alarm; the alarm to be struck until ordered stopped. Fourthly, That when the committee have assembled for action the decision of a majority present shall be binding upon the whole committee; and that those members of the committee whose names are hereunto attached do pledge their honor, and hereby bind themselves, to defend and sustain each other in carrying out the determined action of this committee, at the hazard of their lives and their fortunes. Fifthly, That there shall be chosen monthly a president, secretary, and treasurer; and it shall be the duty of the secretary to detail the members required to be in daily attendance at the committee room. A sergeant-at-arms shall be appointed, whose duty it shall be to notify such members of their detail for duty. The sergeant-at-arms shall reside at and be in constant attendance at the committee room. There shall be a standing committee of finance and qualification, consisting of five each, and no person shall be admitted a member of this association unless

he be a respectable citizen, and approved of by the committee on qualification before admission."

BY-LAWS.

"WHEREAS, The citizens of San Francisco, convinced that there exists within these limits a band of robbers and incendiaries, who have several times burned and attempted to burn their city, who nightly attack their persons and break into their buildings, destroy their quiet, jeopardize their lives and property, and generally disturb the natural order of society; and whereas, many of those taken by the police have succeeded in escaping from their prisons by carelessness, by connivance, or from want of proper means or force to secure their safe confinement; therefore, be it

"*Resolved*, That the citizens of this place be made aware that the Committee of Vigilance will be ever ready to receive information as to the whereabouts of any disorderly or suspicious person, or persons, as well as the persons themselves, when suspected of crime. That as it is the conviction of a large portion of our citizens that there exists in this city a nucleus of convicts and disorderly persons, round which cluster those who have so seriously disturbed the peace and affected the best interests of our city, such as are known to the police of the city, or to members of the Committee of Vigilance, as felons, by conduct or association, be notified to leave this port within five days from this date; and at the expiration of which time they shall be compelled to depart, if they have not done so voluntarily within the time specified.

"*Resolved*, That a safety committee of thirty persons be appointed, whose sacred duty it shall be to visit every vessel arriving with notorious or suspicious characters on board; and unless they can present to said committee evidence of good character and honesty, they shall be re-shipped to the places from whence they came, and not to be permitted to pollute our soil.

"*Resolved*, That all good citizens be invited to join and assist the Committee of Vigilance in carrying out the above measures, so necessary for the perfect restoration of the peace, safety, and good order of our community."

Signed to this were about two hundred names. The documents were then given to the public journals for publication, with the following remarks by the committee:

"The above, a portion of the Committee of Vigilance lately established in the city for the preservation of order, punishment of vice, and for the purpose of meting out that justice so long withheld from criminals, unwilling that the names of a few of their associates should be selected by the Coroner's Jury as the principal actors in the trial and execution of Jenkins, inform the public that they with all the members of the committee are equally responsible for the first act of justice that has been dealt to a criminal in San Francisco since California became a state of our Union. Our fellow-citizens, remembering the escape of Withers, Daniels, and Adams, of Stuart, Wildred, and Watkins, and the tardy manner in which the incendiary Lewis is being brought to justice, will see the necessity of the stringent measures we have adopted."

This publication also informed those friendly to the cause that the Committee of Vigilance had nothing secret in their proceedings but such matters as would tend to defeat the object for which they were associated. After arranging for concert of action, the absence of which had been so severely felt during the Burdue-Stuart affair; after establishing a watchword and a signal to be used to call members to the rendezvous, which was three taps—it had been two taps before—on the California Fire Company's bell, and detailing officers for immediate duty, enrolling a number of members, all among the most respectable and well known citizens, and after disposing of other needed business, the committee adjourned for the evening. I say they adjourned, but they did not disperse. The first great tragedy was to be enacted that night. Before these associates should sleep, their promises must be sealed in blood.

CHAPTER XIV.

BEHIND THE SCENES.

So do the winds and thunder cleanse the air,
So working bees settle and purge the wine;
So lopp'd and pruned trees do flourish fair,
So doth the fire the drossy gold refine.

Spenser.

THROUGHOUT my examination of the subject of popular tribunals it has been my constant purpose to bring to light as much as possible the inner workings of the San Francisco Committee of Vigilance, as that organization must ever be the grand and central figure in all such study. All that has hitherto been made public, all that has hitherto been known of it, is what was outwardly visible at the time. The institution was known only by its results. It was publicly apparent that such an association existed, and the watchful observer could easily ascertain where its members met. The people at large could see when an arrest was made; in the event of exile or execution they could see offenders shipped hence or hanged. But this was all. Of what was done within the walls; of the organization as such, its color, calibre, sentiment, purpose, and secret action, they knew absolutely nothing. Among the members themselves, the right hand knew not what the left hand did. Members of the general committee knew as little about the deliberations and actions of the executive committee as those who were not members of the Vigilance Committee at all.

The history of the movement, I clearly apprehended, could not be fully written without careful

inquiry into what was, of all things connected with it, the most closely guarded. For a long time I was peremptorily refused admission behind the scenes; for years the only answers I received to my constant importunities, to my arguments as to what I conceived to be their duty, their obligations to the world, in the matter were these: We do not wish to revive the past, melancholy as it is with dismal memories. We have no ambition to figure in history. In our action we only followed what we conceived to be our duty; our conscience to-day approves; under like circumstances we should do the same; but there are those whose opinions are worthy of as much consideration as ours who differ with us, and we do not care to discuss the question. Action was our logic, and the fruit of our deeds the end of the argument. We will not, we dare not say more.

Nor was this an unnecessary precaution. In fact, if not so morally, these associates were legally outlaws. In the eyes of their government they were conspirators and murderers, and they could not be officially regarded as anything else. By these acts which they deemed necessary and righteous they laid themselves open to prosecution, which might result in fines, imprisonment, or even death. Should the law decline to act against public sentiment, should it refuse to exercise in its strict letter its power against its loyalist lovers, and visit with punishment the best citizens of the commonwealth, there were yet at large thwarted villains enough in whom burned so strong a desire for vengeance as to make assassination probable. Hence it became the vigilants to be wary and silent; hence, likewise, it was necessary that at all hazards they should stand by each other.

But better counsel in due time prevailed, and once the barrier broken, every recess was thrown open to me without reserve. Not only was all existing written and printed material placed at my disposal, but the fountains of memory fairly opened, a stream of

bright recollection flowed forth such as gladdened my thirsty pen. Supplementing their copious dictations with long and frequent interviews as my work progressed, I am enabled to present what I cannot but regard as an important and wholly individual phenomenon in the history of the race, as distinctly and minutely as the most exact student of social development could desire. And here let me remark that the deeper I sounded the subject the more I became fascinated with it, and the clearer appeared to me the purity of purpose, the wisdom of counsel, and the masterly activity in execution, of those whose deeds I chronicle.

It was on the north-east corner of Bush and Sansome streets that Mr Brannan had his office. There in June, 1851, stood a row of two-story frame houses, in the corner one of which the order-loving citizens of San Francisco organized their first Committee, formed for the purpose of taking such measures as should be deemed necessary to secure safety to person and property. The lot directly opposite on the same side of Sansome street was vacant and ungraded, and huge hillocks of undisturbed sand rolled off toward the south-west.

The entrance to the committee rooms was on Bush street. The low ceiling and sides of the rooms were lined with white cotton cloth, made dingy by dust, wet by such portions of the previous winter's rain as could find its way through the cracks. To the feloniously afflicted a visit to the rooms was as terrifying an adventure as a visit to the cave of Trophonius. Mr Brannan's office was up a narrow flight of steep stairs, in a little room partitioned from the loft at the Bush-street end. His business was extensive; in the city he held much real estate, and in the country he was proprietor of farms and mines. It was in this little office that Neall and Oakes found him on the Sunday afternoon named, for business men in those days

did not usually close their offices on the Sabbath. On the floor below were three rooms, intended for stores, each fronting about twenty feet on Bush street, and running back to a depth of some fifty feet. The rooms were at that time vacant, being for rent. When the gathering of the citizens on Monday night had filled to overflowing the middle room, Mr Brannan took a knife, and cutting the canvas at the sides and bottom, between portions of the studding, opened passage-ways to the rooms on either side. The apertures thus made were curtained by the still hanging canvas.

There was little that was attractive about the place, and it offered few inducements to loungers. These rough rooms, wherefrom renovation should proceed to cleanse the city of its foulness, contrasted strangely with the mirrored and bedizened walls of infamy. The gambler offered you brighter lights and softer seats, but his smile was the leering, jeering, sneering smile of Mephistopheles.

Round a plain table were a few chairs, on which were seated the more active workers of the assembly, the secretary, president, and those engaged in preparing articles of association and plans for future procedure; the rest stood in groups, leaned against the walls, or seated themselves on boxes and boards brought in through the back door. Little cared they for rest or comfort, they who purposed neither rest nor comfort for certain others. During some of these intense excitements hundreds would remain on their feet with no thought of food from morning till night, seemingly without knowing it, so lost were they in their surroundings.

There was little to say in explanation why they had been called together, either at the meeting of Monday noon or Monday night. All knew the purpose of the convention, and it remained only to discuss the best method of accomplishing it. That which was most essential was absolute secrecy, and

this was first of all enjoined. Should courts, officers, and criminals, through the treachery of any, be made aware of their intentions, the best laid schemes were sure to be thwarted. To secure at once secrecy, concert of action, and efficiency, it was thought best to resolve the working material of the association into active and passive parts, the former to comprise the Executive Committee, who should rule, and the latter the General Committee, who should obey.

And it was done. The executive committee thus became in reality the Vigilance Committee, and the general committee auxiliary to it. Of the vigilant forces the executive committee were the general and his officers, or the president and his cabinet, and the general committee the common soldiers. As a check upon the abuse or misrepresentation of power, it was made the duty of the executive committee, before ultimate action on important questions, to lay their propositions before the general committee and obtain the sanction of its members; but from the executive committee must issue all orders, and they alone were to be held responsible.

Monday night the protocols of constitution and by-laws were drawn, and Tuesday night they were adopted. Officers were chosen and sub-committees appointed; and as the association met from day to day, new necessities brought forth new rules. This the records of the meetings will more clearly show, and to them I now refer.

Selim E. Woodworth was the first president of the general committee, and Samuel Brannan the first president of the executive committee. Brannan's term of office expired in three months; then Stephen Payran was made president of the executive committee, and after him Gerritt W. Ryckman. Money was freely circulated in those days, and at times when enthusiasm ran high ten thousand dollars if necessary could be raised for a popular measure in an hour.

The archives of the executive committee of 1851,

which were kindly placed at my disposal by Mr Isaac Bluxome junior, secretary of the committees both of 1851 and 1856, consist of books of record and bundles of loose documents. The first book of the committee was that of the signers of the constitution. It is a cap half-bound record, and the constitution occupies the first two pages. On the margin of the second page are the words: President, S. E. Woodworth; Treasurer, Eug. Delessert; Secretary, Is. Bluxome; and in another handwriting, Constitution adopted June 9, 1851. Following the constitution are seven hundred and sixteen signers, their names, places of business, and residence. A separate book was kept by the qualification committee, in which were entered the names of those applying for membership, and by whom recommended. If approved, such approval is noted and signed by the qualification committee. A long narrow index-book was used for the purpose of noting delinquents, and from this fines were reckoned. As a rule members paid their fines cheerfully and promptly.

The signers of the constitution were numbered as the names were written, and each was called by his number. Admission of members to the meeting was much the same as at a freemason's lodge; the applicant, if unknown by sight to the door-keeper, called his name and number, and was identified by the sergeant-at-arms. At times when extraordinary caution was necessary a password was used. Then there is the cash-book, kept by Eugene Delessert, treasurer, in account with the Committee of Vigilance, and continued by George Ward. Among the chief items of expense were $192 the 14th of July for boat hire; passage, A. Wright, 19th of July, $100; trip to Sacramento and expenses there in the arrest of B. Kay, same date, $134. Other expenses in July, use of steam-tug and boats, $100; rent, $400; expenses of Rider, Reynolds, and McDuffie, $196.50; carriage hire, $16; A. J. McDuffie, sergeant-at-arms, services

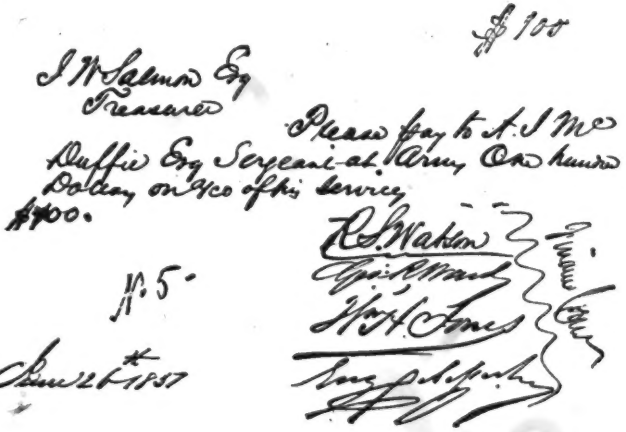
rendered, $150; and divers amounts paid newspapers, and for lumber, carpenter work, furniture, stationery, and other supplies. In July was also paid the passage money of George Hopkins, $100; travelling expenses of H. Miller, $100; McDuffie's services, $234.44. On the 11th of August was paid the sheriff's passage by the steamer *Ohio*, $135; the 11th of September, $50 was paid for carriage hire, and on the 13th, $225 passage money for prisoners. Notwithstanding the grave matters before them, creature comforts were not wholly neglected, as among other items I find paid the Oriental Hotel $200, and the club-house, for gin, brandy, and cigars, $58. Boat hire constituted a large item of expense. None of the members of the executive committee drew salaries except the secretary. Drinks are entered in the expenses of agents and detectives in common with steam-boat fare or any other outlay.

The revenue of the committee was derived chiefly from the five-dollar subscriptions of members, and donations from merchants and others. During the month of June, a bank account was kept with James King of Wm., with whom was deposited $1,670.97. The account continues only through the month of June, and the bank-book is not balanced. This account is kept with J. W. Salmon, treasurer. Mr Salmon was the first treasurer and Eugene Delessert the second. Salmon's account, dated the 7th of July, shows receipts according to the above amount deposited, all of which was paid out for rent, carpenters, water, police, sergeant-at-arms' salary, etc., except $112.48, which Mr Salmon handed his successor, Mr Delessert. C. H. Miller presents a claim the 22d of July, "for cash expended by him in going to and returning from Sacramento City three times for the purpose of arresting Jimmy-from-Town, Dab Ainsworth, and George Adams, $100," which was allowed and paid.

Eugene Delessert opens his cash-book the 1st of

July, 1851, with the amount received from his predecessor. During his term, which lasted until May, 1852, the receipts were $7,791.80, at which time there was due him from the association $220.38. George R. Ward then assumed the office of treasurer, and up to October 7, 1852, the date of the last entry, the book shows receipts to the amount of $330.76.

Herewith I give *fac-similes* of money-orders:



The roll-call of the executive committee forms a separate book of fifty-one names in all, though some from time to time were erased. This roll begins with the 24th of September, 1851, and continues, with intervals of about a week between each call, to the 29th of April, 1852. Every member was required to pay to the treasurer the sum of five dollars on joining. At a meeting of the executive committee, held the 22d of October, it was ordered that a safe should be purchased, in which the secretary should keep the books and papers of the association.

The Committee of 1851 was not as complex in its mechanism as the Committee of 1856. The former had no military organization like that of the latter,

but a police organization only; yet in case of emergency the officers of the association had a way of speedily adapting their forces to circumstances.

Beside the regular police there was a water police, of which Ned Wakeman was chief. The regular police were paid, but often members were detailed for police duty who drew no pay. The city was districted, and a committee appointed to oversee the affairs of each district. The water police were stationed along the city front to keep an eye on ships and sailors, and to watch for thieves accustomed to enter from beneath stores built over the water. Charles Minturn was in the steam-boat business then, running the *Senator* on the Sacramento River, and was supposed to have in his possession a large amount of money. So it was with others. There being no banks of deposit enjoying the confidence of the community, merchants kept their money in their stores; and often large amounts of gold dust were separated from the pirates underneath only by the thin partition of the floor. Curs were not so plenty in California then as now; few cared to keep a dog at an expense of one or two dollars a day.

The sergeant-at-arms might call on any member, not otherwise engaged in the service of the Committee, at any time, for special duty. A printed form was furnished for the summons, which read as follows:

"COMMITTEE OF VIGILANCE.

"ANDREW ANDERSON:

"You are detailed for secret duty from ten o'clock to twelve o'clock to-night, and will report accordingly to the Sergeant-at-Arms at the Committee Room. No. 58.

"*San Francisco, June 19, 1851.*"

It was resolved on the 27th of June that each member should report himself at the committee rooms once in every twenty-four hours.

Copies of passenger-lists of vessels arriving from certain ports were obtained, and the character of the

new arrivals carefully examined. Out of mercy for their historian I beg the coming committees of vigilance to date their documents. In the huge intermixture before me are hundreds of letters, reports, resolutions, and even examinations and confessions, to which it is impossible to give their proper place in this history, from the fact that they bear no date. What is strange about it is that most of these documents are written by business men, who would never think of sending out a business letter with such an omission.

Some of the minutes of meetings, notices, complaints, evidence, and reports are carelessly dated 1851 during the early part of 1852, before the writer had become accustomed to the new year. These blunders I am able to detect by comparing such papers with the events spoken of. Fortunately, from the records and from their connection therewith, I am able to place the most important of these documents, but the labor is doubled from their lacking date.

The vigilance system was one of popular espionage, the most extensive and complete a liberal government has ever seen. Every man was a spy on every other man. Opposition was intimidated by the watchful eye and silent tongue. Often a bad man did not know his bedfellow, or when or where to speak his mind.

One day a group of men, gathered in the bar-room of the Union Hotel, stood talking somewhat too loudly and vehemently against the 'stranglers,' when Mr Ryckman stepped in for his luncheon. After listening attentively for a few moments, though without appearing to notice them, he stepped up to one of the chief speakers, a wealthy, influential man, whom he well knew, and called him aside, saying he wished to speak a word with him. When they were alone Ryckman drew from his pocket an imprint of the watchful eye, the emblem of the organization, and showing it to him, said:

"The Committee will see you at their rooms this evening at eight o'clock."

"My God, Ryckman! what do you mean? Surely you are not one of them?"

"I mean what I say," answered Ryckman. "These men are staking their lives and fortunes for the general good, and they shall not be vilified in my hearing behind their backs. If you have any charges to make, and will substantiate them, they will listen to your accusation against themselves, or any one of their number, as dispassionately as they will listen to my accusation against you. Good-day. You will be there at the appointed hour."

As Ryckman moved off, his quondam friend seized hold of him, and in the most piteous terms begged him to recall the order for his arrest, promising respectful prudence for the future. With some further words of admonition, to this at length Ryckman was constrained to yield assent, and so left him.

The sergeant-at-arms reports, at the meeting of July 4th, numbers 317, 264, and 236 as injurious to the Committee, and thenceforth those members were refused admission.

CHAPTER XV.

JOHN JENKINS, NOLENS VOLENS.

A dismal universal hiss, the sound of public scorn.

Milton.

In Washington Block, on Long Wharf, was the shipping office of Mr Virgin. It was customary, under the reckless régime of that business epoch, for merchants and others to leave their offices unlocked during the day, coming and going at pleasure, while in the drawer or money-box might be thousands of dollars in gold. Prior to this time it was even more common. Mr Neall informs me that in 1849, often on Sunday he would tie his tent strings, take his gun, and march off over the sand-hills, leaving thus exposed his stock, and sometimes fifty thousand dollars in gold dust locked in a little iron box which one blow of a hammer would shiver. This spirit of indifference to money among money-making men, and the absence of suspicion between those so lately strangers, is one of the strangest characteristics of the times. It is no wonder that the men of Sydney, accustomed to the ponderous vaults which barred their fingers from the property of their English brethren, should laugh within their hearts at the shrewd simplicity of these careless money-getters.

Like his neighbors, Mr Virgin kept his money in a small iron safe, such as a strong man could easily carry, and on leaving his office he never thought of locking the door. There was a stranger Mr Virgin had noticed several times of late lounging about the wharf; a tall, powerful man, with keen, restless eyes,

though, as the shipping agent imagined, a somewhat sinister expression about the face. He was just the person, one would think, successfully to cope with difficulties in virtuous endeavor in such a place as California. Indeed he once entered Mr Virgin's office and spoke of passage to the upper country and of the several chances for an honest man in various parts; and although to the intuitive perceptions of the Californian these lacked the genuine ring of honest purpose, the shipping agent thought little of it, as there were hundreds of adventurers who came to him daily, destined they knew not whither.

For several days this man had been lurking about, awaiting such time as would at once find this office empty and the coast clear without; for the truth is, the Sydney stranger, for such he was, had some time since resolved to appropriate to himself in one lump the proceeds of many laborers rather than to go and dig for himself. There was greater risk in such adventure, and greater skill required in its achievement, but he would undertake it.

The time chosen was Tuesday, the 10th of June, 1851, toward the dusk of evening. Mr Virgin was absent from his office attending to the sailing of one of his vessels, and the attention of loungers about the wharf was momentarily called in the same direction. It was a bold, a brazen thing to do; one would think the chances altogether against the thief. And so they were; but when philosophers in some certain quarters of their mind are such fools, when the ablest scholars in science, divinity, and jurisprudence as a rule indulge each in some quaint absurdity of so simple a nature as to call to the face of homely common-sense a smile, surely we should not look for perfection in skilled villainy. It is asking too much of the genius of rascality that every thread of logic in its hypotheses should be equally strong while the genius of morality is often so bat-blind and owlish.

He would try it. Throwing round him one last

hurried glance, he thenceforth shut his eyes to consequences, and stepping into the office he seized the safe, slipped round the building, and dropping it into a boat ready for the purpose, shot from the wharf. It was all done in an instant; and once out upon the Bay with his prize he did not stop to see what was to come of it, but pulled away with all his might for the opposite shore.

Virgin shortly returned and missed his safe. Raising the alarm, he soon found several who had seen the man with his burden, and instantly a dozen boats were in hot pursuit.

At such a time every right-thinking man made his neighbor's cause his own. This was another of the peculiarities of Californian character incident to the times. I do not mean to say that it is uncommon or less natural for virtue to band for self-protection than for vice; but in California more than elsewhere, and then more than now, there was manifest a fraternal feeling among both the good and the bad such as I have never witnessed elsewhere. In coming hither all were strangers in a strange land; all had much in common; each carried his fortune in his own hand; in the absence of firm general rule each alone felt unprotected; hence there was more than ordinarily apparent that natural uniting instinctive to weakness.

One boat with but a single oarsman, even though he were a strong man whose life depended on his exertion, was no match for a dozen boats well manned by skilful rowers; so the thief soon saw, as he would say, that the game was up. But they should not have the money though he swung for it. What he could not enjoy they should not. Half the battle would be won, though they should capture him, if he could cheat them of one of the objects of their eager pursuit; so he threw the safe overboard and pulled away harder than ever.

But all in vain; for presently he saw his head surrounded by twenty open-mouthed pistols, each thirsty

to drink his life. The call to stop was unnecessary; the thief rested on his oars and was a prisoner. The spot was marked by his pursuers where the safe was dropped; and while some stopped to fish it out, which was successfully accomplished, others conveyed the prisoner to the new tribunal of the people, as the one most proper to administer justice according to the temper of the times. Two or three policemen made their appearance after the man was taken, and suggested that they had a safe and proper place for him; but they were told not to disturb their sleep by looking after other people's prisoners.

The citizens' meeting at Brannan's stores on this Tuesday night, as we have seen, was adjourned, although the members of the newly organized association had not dispersed. While they were conversing upon affairs yet uppermost in their minds a knock was heard, and word came in that a thief had been taken, and that his captors waited with him outside. They were ordered in. Quicker than had been surmised was here an opportunity to test the new machinery, and see how the so lately improvised judicial engine under action would behave.

As the prisoner, closely guarded, entered, the California Company's bell sounded the alarm, calling all good citizens to rally to the support of their Committee. The thing was not done stealthily, under cover of darkness, as we have so often been told. I have it on the authority of Mr Neall himself that his associate, Mr Oakes, with a billet of wood in his own hand, struck the bell twenty times and more, three strokes and a pause each sounding, such being the signal agreed on.

Still surrounded by his captors with cocked pistols in their hands, the prisoner was placed before his judges. Rough, tall, powerful, of fine physique, with English dress and cast of feature, he stood glaring defiance through the dim candle-light like a foiled Argantes. He was an Australian convict, and known

to many present as an old offender. Simpton was his true name, but he called himself John Jenkins; and in so far as this apparent predilection is concerned we will humor him, and so pass him to posterity. He was a vicious-looking man, a desperate character, who on many occasions had eluded justice, and his record would entitle him to the severest punishment. All this could be easily proven.

Few who heard the strokes upon the California Company's bell on that night knew the exact purport of its sounding. They knew that the confused events of the last several months had boded dire combustion; but speaking little, each joined the throng, which was soon discovered to be leading to the little frame house standing on the corner of Bush and Sansome streets.

The executive committee immediately organized as a court, with the president, Samuel Brannan, as chief judge, and the members of the Committee as associate judges. The sergeant-at-arms was required to clear the rooms of all save the members and officers of the tribunal, which now numbered about seventy names. The case was then opened and testimony taken. To prove the last offence was a simple matter, as there were present many well known and highly credible witnesses fresh from the scene. It was then proposed to inquire into his previous conduct, and bring testimony, if obtainable, in regard to former crimes. This was easily done, as there were those present in the gathered multitude without who knew him well, and his acts were bold and recent. A committee was appointed to obtain witnesses for the accused.

Both before and after the arrest of Jenkins quiet and good order prevailed. Within the committee room there was no undue excitement, and without there was no disturbance. Yet notwithstanding the general calmness there was no little nervousness beneath the surface of things. Here was a desperate deed, unparalleled in its audacity, done in the teeth and at the very moment of the vigilance organization.

At one time during the proceedings there appeared to be some faltering on the part of the judges, or rather a hesitancy to take the lead in assuming responsibility, and braving what might be subsequent odium. It was one thing for a half-drunken rabble to take the life of a fellow-man, but quite another thing for staid church-going men of business to do it. Then it was that William A. Howard, a man of impetuous bravery, after watching the cooling zeal for a few moments, rose, and laying his revolver on the table, looked about over the assembly; then in slow, clear enunciation said: "Gentlemen, as I understand it, we are here to hang somebody!" The look and manner were enough; there was no more halting.

The trial lasted until eleven o'clock, when the prisoner was conducted to an adjoining room, and the jury were called to render their decision. The verdict was unanimous; the prisoner was guilty and should be hanged.

"When?"

"The sooner the better; immediately. Safety demanded prompt action in the exercise of this new expedient."

Ryckman entered the prisoner's room and made known to him the decision of the tribunal.

"Bosh!" was the only reply.

"Tell me truly, what is your name?" asked Ryckman.

"John Jenkins."

"Mr Jenkins, you are to die before daybreak."

"No, I am not."

"Have you any money or message to send your friends?"

"No."

"Do you wish me to write to any one for you?"

"No."

"Can I do anything for you?"

"Yes; give me some brandy and a cigar." These were given him. He drank deep, and smoked with

a relish. Mr Ryckman then asked the condemned if he would like a clergyman; and if so, of what denomination. Jenkins, after receiving repeated assurances that his death was near, intimated that if he must have one he would prefer an Episcopalian; accordingly the Rev. Mr Mines was summoned and came immediately.

Mr Mines had not been long alone with the prisoner before the Committee began to be impatient. It was the sentiment of the meeting that prayers and exhortations should be short, as well as trials and executions. The police might rally and attempt a rescue; then Broderick, too, was out with all his force, and strongly opposed to the Committee. At last Mr Ryckman could curb his restlessness no longer, and entering again the prisoner's room, he said: "Mr Mines, you have now consumed three quarters of an hour, and I want you to bring this prayer business to a close. I am going to hang this man in fifteen minutes."

Throughout the entire proceedings the bearing of the prisoner was defiant and insulting. He confidently expected to be rescued at any moment, and openly intimated as much. Indeed, while the trial was in progress the Committee were informed by its officers that already the roughest characters throughout the city were fully apprised of the organization, and they knew that one of their number was that night taken before it. Mingling with the crowd around the building, listening to what was said, and watching those that entered and came out, it was easy to see that something unusually stern was going on within; and they might well infer, if they purposed to save their comrade, they had best rally to his rescue soon. When the verdict of the jury was told the prisoner, he heaped on them maledictions and told them to do their worst.

The sentence of immediate execution was opposed by some, on the ground that it was neither manly

nor politic. "To hang him at night, in such hot haste," said Coleman, "would be to lay at our door an undeserved imputation of cowardice. Though our judgments be in secret, our deeds should be visible in the broad light of open day; let this unfortunate man be held till morning, then let him be hanged by the light of the rising sun." This sentiment, however, found few supporters; and when the clergyman came in soon after and reported the criminal impenitent, when he informed them that for his prayers he received naught but curses, those who had advised delay gave way and offered no further objection to immediate action.

While this was going on, it had been thought best to test the quality and sentiment of the people surrounding the building, to tell them what the Committee had done, and what it now proposed to do.

"Sam, you go out and harangue the crowd," said Ryckman to Brannan, "while we make ready to move." Mr Brannan assented, first asking Mr James C. L. Wadsworth to accompany him. The two gentlemen went out, and the crowd opened a passage-way for them. Mr Brannan was a fit match for lighting the popular flame. As ready in the use of invective as the great high-priest of his Mormon order; as full of oaths, as flatly coarse, and roundly ribald as a chief of banditti, no one was more apt in such an emergency than he. Ascending the mound of sand opposite the old Rassette House, Mr Brannan poured forth a torrent of words such as would drown a philippic of Demosthenes. He abjured the law-courts, execrated the judges, and taunted the people for their tame submission to criminal rule. Finally he informed them that he, in company with Mr Wadsworth, had been deputed by the Committee to report what they had done. After an impartial trial the prisoner had been found guilty and sentenced to be hanged, the execution to take place on the plaza in one hour. A clergyman had been sent for, and all things should be

done in accordance with the solemnity of the occasion; and he charged the people, as they valued the peace and dignity of the commonwealth, to make no rush or disturbance during the solemn scene which was to follow, assuring them that the Committee would endeavor to conduct everything to their satisfaction.

"And now," said he, "tell me, does the action of the Committee meet with your approval?"

A mingled shout of 'ays' and 'noes' went up from the crowd, with cheers and cries of "Who is the speaker?" "Who are the Committee?" "No names!" "No names!" The 'ays' were largely in the majority, and the crowd moved off toward the plaza.

A committee was then appointed, consisting of Coleman, Wakeman, and Schenck, to select a place and make arrangements for the execution, and to report as soon as possible. The three men set out at a round pace on their mission, and although it was then after twelve o'clock they found the city sleepless, and the streets alive with people. There seemed to be something magnetic about the old plaza, for whenever young San Francisco had any special prank in hand that was almost sure to be the play-ground chosen. After discussing the advantages of several points, the three midnight gibbet-hunters finally settled upon making use of the old adobe custom-house building then standing in the plaza. No sooner had they arrived at a decision than a messenger was despatched to head-quarters, saying that all would be ready in fifteen minutes. The arrangements were soon completed. A rope was thrown over a high beam of the veranda at the south end of the building, a noose was made at one end of it, and all was ready.

At half-past one the door was thrown open, and the members of the Committee passed out into the street. There they found that the people had not been wholly unmindful of them; for two large ropes had been procured and were held by lines of men on either side of the entrance, leaving a passage-way for

the Committee, and at the same time forming a barrier to protect them from the pressure of the crowd. The Committee then formed within the ropes, in two lines of two abreast; the prisoner, bound, and under a strong guard, was placed between them; the lines were then closed at either end, and thus they marched quickstep toward the plaza.

Among the number was little George Ward, as brimful of snap as a fire-cracker, and as brave as Jack the Giant-Killer. As he marched, marched away, brandishing his weapon as one bent on doughty deeds, Ned Wakeman cried out, "Take the pistol away from that boy; he will hurt somebody!"

Before marching, Bluxome tapped his revolver and said to the prisoner: "In any attempt which may be made to take you out of our hands, at the first movement you make to escape, you die. That is my part of this night's programme." "Yes, sir!" chimed in Ward, "if the police attempt to seize you, sir, we will blow your head off, sir!"

As the Committee started their prisoner on his last earthly walk the California Company's bell tolled the death knell of the condemned, striking in the stillness of the night upon the ears of that outraged community with awful solemnity. Fainter and fainter the strokes were heard, like the dying of earthly sounds to the departing soul, as the column marched away; but as it neared the scene of execution the Monumental Company's bell struck clear and full upon the ear. Ah! then and since, at the tolling of that Monumental bell, how the consciences of its hearers were pricked; how to guilty souls accusing voices whispered; how hearts sank, and breaths thickened, and limbs trembled, until, like Eugene Aram, they were seized with an irresistible impulse to confess their sins and yield themselves up to justice!

Meanwhile the officers of the law and the desperadoes had not been idle. Their emissaries kept them fully informed as to the movements about the

Committee rooms; and when the column formed in front of the door they quickly knew it, and determined on an attack. Collecting about the corner of Clay and Kearny streets, they waited the approaching procession. But the Vigilance Committee were made aware of their intention, and were prepared for them. All had their weapons ready, and were determined, if necessary, to use them. If thwarted now they felt that they might almost as well abandon the country as attempt its purgation further. As they approached the plaza, Benjamin Ray, chief of police, made a dash for the prisoner; but this was more a feint made under color of duty than a real attempt at rescue. He was easily thrust aside, and then was plainly told that he had better keep away. The desperadoes were next upon them, but they were beaten back without much difficulty, and the column continued its way unbroken. Near the centre of the plaza stood the liberty pole; and as they entered the square some thought the purpose was to use it as a gallows.

"No, no! not there!" they shouted. "Don't desecrate the flag!" So said the unreasoning rabble; for if it was a righteous deed that was to be done how would it hurt the flag?

Some confusion ensued; but soon the patriotic populace was made aware that such was not the intention, and all was quiet again. Arrived at the south porch of the old adobe, the prisoner was placed beneath the rope, which passed through a pulley fastened to the railing of the veranda, and about half-past two the noose was adjusted round his neck.

"Every lover of liberty and good order lay hold!" cried Brannan; and scarcely were the words uttered when fifty hands grasped the rope, and with a sudden jerk which broke his neck the unfortunate man was lifted upward, and his guilty soul shot hence into the unknown realm of the beyond.

During the latter part of this tragic scene the condemned had manifested the utmost indifference.

Though he well knew that the failure of the fraternity to rescue him sealed his doom, he was calm and courageous to the last. He marched to his death with firm step and fearless eye, smoking the while, and died with a cigar in his mouth.

The body was left hanging, under a strong citizens' guard, until six o'clock, when it was given up to the authorities, and was cut down by the city marshal. Two hundred and eighteen dollars were found in the pockets of the deceased, which went to defray the burial expenses.

While it was absolutely necessary that the Vigilance Committee should keep its own counsel, that its investigations and intentions should rest a profound secret in the breast of the few, the members were no less determined that every one of their acts should be performed as under the eye of God, as under the direction of a pure conscience, and should be such as might not fear the after scrutiny of their fellow-men. Some now felt the responsibility so burdensome that, while their hearts were in the cause, their courage was made craven by fears of the consequence. But of the executive committee there were comparatively few so stricken. Some natures, good enough in their way, shrink from dangerous responsibility; some are cowards by instinct. Such the stronger souled bowed kind God-speed to the committee room door, and bade them go, then turned their thoughts to practical justice. Up to this time no oath of secrecy had been administered to members of the Committee; all that was required for admission into the society was a recommendation from a member who vouched for the character of the applicant.

The testimony of Mr Brannan at the coroner's inquest, held the day following, further illustrates the objects of the association and the manner in which the trial was conducted. But it must be remembered that the operations of the Committee were

not then systematized in all their parts, nor did Mr Brannan deem it prudent to tell all he knew. Some questions he declined to answer. What he said was as follows: That he first saw the man at the corner of Bush and Sansome streets. Two men held him by the arms, who said that they had arrested him. He was not then handcuffed or pinioned. He was tried fairly, by sixty or eighty persons, and the verdict of guilty was unanimous. The jury impanelled themselves; they were composed of the committee of safety, all citizens of the town. He had heard threats made against the lives and property of the members; a prisoner in the county prison swore that he, Brannan, should not live ninety days. He knew of nothing done by the Committee that they would conceal from the officers of the law under proper circumstances.

On the other hand, Hall McAllister testified that, going to the committee rooms about twelve o'clock, he endeavored to obtain admittance, but was repulsed. He saw others give the countersign and enter, each whispering to the door-keeper the password, which obtained him entrance. He neither participated in the proceedings nor sympathized with the party; later he was disgusted at what he deemed an outrage.

"No man need be afraid to let his children know the part he took in that transaction," writes the editor of the *Courier*, three days after the event. Speaking of the constitution and by-laws of the Vigilance Committee, which appeared in the public prints of the 13th of June, signed by the then existing members, the *Herald* says: "If any guaranty were requisite of the justice and fairness of the proceedings of Tuesday night, it is furnished in this array of names, the most respectable and influential in the city. That the Committee did not sit with closed doors for any sinister purpose will likewise be evident from this voluntary publication."

At the coroner's inquest the following verdict was rendered:

"We, the jurors of a jury of inquest impanelled by the coroner of the county of San Francisco to inquire into the cause of the death of one John Jenkins, alias Simpton, do find, upon their oaths, that the said Jenkins, alias Simpton, came to his death on the morning of the 11th of June, between the hours of two and three o'clock, by violent means, by strangulation, caused by being suspended by the neck with a rope attached to the south end of the adobe building on the plaza, at the hands of, and in pursuance of a preconcerted action on the part of an association of citizens, styling themselves a Committee of Vigilance, of whom the following members are implicated by direct testimony, to wit: Capt. Edgar Wakeman, Wm. H. Jones, James C. Ward, Edward A. King, T. K. Battelle, Benj. Reynolds, J. S. Eagan, J. C. Derby, and Samuel Brannan."

To which the Committee made reply:

"*Resolved*, That we, the members of the Committee of Vigilance, remark with surprise the invidious verdict rendered by the coroner's jury upon their inquest upon the body of Jenkins, after we have all notified the said jury and the public that we are all participators in the trial and execution of said Jenkins. We desire that the public will understand that Captain E. Wakeman, W. H. Jones, James C. Ward, Edward A. King, T. K. Battelle, Benjamin Reynolds, J. S. Eagan, J. C. Derby, and Sam'l Brannan, have been unnecessarily picked from our number, as the coroner's jury have had full evidence of the fact that all the undersigned have been equally implicated, and are equally responsible with their above named associates."

This was signed by one hundred and eighty members of the Committee, and published in the public journals of the day.

CHAPTER XVI.

THE SAN FRANCISCO EXECUTIVE COMMITTEE OF 1851.

Solid men of Boston, banish long potations;
Solid men of Boston, make no long orations.

Morris.

THE association was admirably systematized, displaying marked ability on the part of the management. Each member of the general committee, whether composed of fifty, five hundred, or five thousand men, knew his place, knew exactly what to do when an alarm sounded; and further than that he knew nothing. He could keep well the secret which was never intrusted him. He knew enough, but not too much; enough to direct him on all occasions what to do, but not enough to enable him to question and to cavil.

It was the duty of the executive committee to see that every person brought before them accused of crime should have a fair trial; that none should be convicted upon less testimony, setting aside legal technicalities and court clap-trap, than would suffice to convict in any respectable court of justice. The executive committee made no arrests, unless it so happened that some member of irrepressible activity should pick up a criminal now and then; but it was their province to take cognizance of everything connected with the association, great and small. This was the central power round which all interests revolved. It was the inquisition, the privy council, the secret spring that moved the ponderous machinery, the living, thinking soul, of which the general committee was the body corporate. All power was lodged

in them; all secrets were lodged with them; all orders emanated from them, and every member of the association was bound to obey unquestioningly, unhesitatingly, and as blindly as a common soldier obeys his commanding officer.

When an arrest was made, the usual course was first to confine the prisoner, under guard, in a room or cell provided for that purpose, until an examination could be made. A sub-committee was then appointed by the executive committee to make the investigation, the results of which were reported to the executive committee for final action. When brought before the Committee, the prisoner was first examined as to his antecedents, inquiries made into his present life, and then investigations made of any charges that should be brought against him. One might think that a stranger telling his own story could deceive at pleasure. But this was not so easily done. No one was arrested except for some cause. Before and after the arrest all information possible concerning the culprit was obtained and laid before the Committee. The prisoner was unaware what his inquisitors knew or did not know; and with a score or two of sharp eyes upon him, he felt neither comfort nor confidence in his lying. After the trial and conviction of a criminal by the executive committee the case was referred for approval and confirmation to the general committee, who almost invariably confirmed the decision of the executive committee. Often a tale of innocence such as an angel might tell was interrupted with questions like these: "My good man, do you not know there is not a word of truth in what you are saying? Do you not know that you were put on board the *Susan Wright*, bound for Australia, the 13th of September, 1843, in irons, and that you came to California with money stolen at Hobart Town? Do you not know that on the night of the fire, the 4th of May, you were in the Magnolia saloon, and not at San José, as you have

said? Unless, sir, you can speak the truth, you will be sent back to your cell and tried on more trustworthy testimony."

The records of the executive committee begin with the 16th of June, with Samuel Brannan as chairman and David S. Turner secretary. At this meeting it was ordered that the captains of the night patrol be vested with full powers by the executive committee to act as they might see fit; and further, to have the privilege of choosing for the guard such men from the general committee as they should please; and that the said captains of patrol should be instructed to keep all information they might acquire during the night a profound secret pending the action of the executive committee to make it known to the general committee.

On motion of Wm. T. Coleman it was ordered that all refreshments should be placed under the control of the sergeant-at-arms, and by him dealt out only to members on duty; and that spirituous liquors for the use of the Committee should be excluded from the building. It was likewise directed that the heads of committees should be instructed to keep secret all information which might come to their knowledge. Taking the floor, Mr Brannan urged that some one should wait upon the district attorney and learn the particulars of a certain criminal case then pending, and all other matters of interest to the cause. This measure was resolved on; and also that a committee of three should wait on the mayor and the sheriff, ascertain their strength, the strength of prisons, the condition of prisoners, and their disposition to coöperate with the Committee in their work of reform.

The last entry in the first book of minutes of the association is under date of July 4, 1851. Between this date and the opening of the large book of proceedings the 17th of September the interval is left without record save on loose papers, the writing on which is oftentimes half obliterated.

During the most of this time, that is to say from June to September, the executive committee met and held court every day. There was work enough to keep them all busy. Information concerning crimes and criminals came pouring in on them from every quarter. Individual informers and country committees of vigilance were hourly notifying the Committee of the whereabouts of felons who must be hunted down and brought to trial. With a large, active, and enthusiastic police force constantly bringing up cases requiring the most careful consideration; with the rapid arrival of vessels having on board convicts and questionable characters, involving personal examination on the part of the agents or emissaries of the association of hundreds of men and women; with five or ten prisoners on trial at one time, requiring the employment of counsel, the searching for and examining of witnesses, the taking of testimony and receiving and recording confessions, of which class of documents the archives of the association are largely composed; with an occasional hanging to be done, and a constant shipping away of those so sentenced by the Committee—securing their passage, and raising the money to pay it, and attending them beyond the Golden Gate; with the watching of judges, and the proceedings of courts of justice; with five hundred impatient members to satisfy, who were always eager for something to be done; with the settling of differences of opinion among themselves, and the general and particular care of the workings of the new and strange machinery—with all this and much more, I say, these judges had work enough to do in the conscientious execution of their self-imposed duties.

It was ordered at the meeting of the executive committee the 17th of June that some plan of proceeding should be adopted as to the disposition of those ordered to leave. They resolved likewise to watch the proceedings of the trial of a noted burglar. The next meeting directed the chief of police to bring

before the Committee one under sentence of banishment, to hear what he had to say in his defence. The testimony was very lengthy, occupying the Committee more than five hours. It was all taken down by the secretary and filed with the other papers in the case. The evidence thus far was rather against him, and his case was continued. Meanwhile the June fire occurred, and the wrath of the citizens waxed hot against the supposed incendiaries. The executive committee offered a reward of five thousand dollars for the delivery into their power, with evidence sufficient to convict, of any person guilty of the crime of arson.

It well became the officers of the law during the movement of 1851 to treat the Vigilance Committee with profound respect. So heartily were the people in sympathy with the organization that there was little sentiment wasted on the rights and divinity of law. The men of law were watched as closely by the reformers as were the lawless, and the higher the seat of corruption the sooner was it assailed. Woe, then, to him of evil conscience; be he sheriff, judge, or governor, his sins shall not go unpunished!

The sum of five hundred dollars was voted the captain of police, the 1st of July, for secret service money. At the same time inquiry was to be made into the manner of the arrest of a negro by an officer of the law. The business transacted by the Committee the 2d of July was as follows: Being informed by Captain McGowan, of the revenue cutter, of the arrival of the bark *John Potter* from Sydney, a committee of five was appointed to visit the vessel and report. Communications, one from the Committee of Vigilance of Santa Clara, another about a robbery, another from the Vigilance Committee of Marysville in regard to the Jansen affair, were read and acted on. Captain White, of the brig *Cameo*, bound for Sydney direct, informed the Committee that he was ready to take with him any scoundrels they might wish to

send, at the rate of one hundred dollars each. He promised likewise to give bonds for their safe delivery at Sydney or Hobart Town.

It was hardly to be supposed, as humanity is constructed, that so many men of nervous energy, of independent thought and pronounced ideas, should not differ warmly in their opinions on occasions; in other words, that they should never quarrel. The wonder is that they could hold together at all; that the mercury in their natures should so marry the metal of their minds as to form a solid ball of amalgam which no infelicities of temper could dissipate. Indeed their quarrels were never anything but children's quarrels. So deep was their respect for each other, so impressed were they with the importance of their undertaking, and so earnest in their purpose, that self was swallowed in the common cause, and personal pride and pique were but the momentary stinging of a gnat. In their high purpose, then, I say, they were men; in their disagreements, children.

In July, 1851, Mr Brannan sent in his resignation, both as president of the association and as member of the executive committee. It seems that some sharp words had passed between him and McDuffie, sergeant-at-arms. As I have said, Mr Brannan was just the man to incite a revolution, but he was not the man to conduct one. The shot of determinate purpose once fired from his brain, like Nelson at Copenhagen with his blind eye to the telescope, he would not see the signal of retreat. There were better men than Brannan for president; there were fifty as good as McDuffie for sergeant-at-arms. Yet these were both good and true men in the present emergency. The cause owed much to Mr Brannan; and that it needed him less now was not sufficient reason, in the eyes of his associates, that he should be sacrificed to his own irascibility. So a committee was appointed to heal the feud between the officers; and such, with

but few exceptions, was the quality of magnanimity manifested by these men throughout their entire intercourse.

Payran was of this Committee one of the leading spirits. He was a man of dignity and courage, and ready alike with tongue or pen. He had been a copyist in Philadelphia, and took down testimony rapidly and easily. The following incident illustrates at once his character, and the method, or rather the lack of method, employed by the vigilants in the execution of their commissions:

It happened that a poor woman who had adopted a young girl, then about ten years of age, and was striving as best she might to rear her charge virtuously, one day rushed to the committee rooms and entered an appeal which moved the hearts of all present. Certain former associates of the child's mother had just then abducted the girl from her guardian and had hurried her off to Marysville, there to be eventually employed, as the woman was assured, for vile purposes. Payran asked to be appointed a committee of one to recover the child.

"But what can one do?" asked a member of the Committee. "Marysville, as you are well aware, is ruled entirely by the roughs, of whom the local committee themselves stand in awe."

"Nevertheless, I will go," said Payran. "All I ask is the authority of this board."

"That you most assuredly have," replied the Committee-man; a sentiment which his fellow-members immediately confirmed. "But beware! there is danger in it; the child was not taken to be given up for the asking."

"Trust me," said Payran. Arrived at Marysville, accompanied by the woman for purposes of proof and identification, he soon ascertained the whereabouts of the child. Without discovering himself to its abductors, he went quietly round among the prominent citizens of the place, stated the circumstances, and

informed them of his determination. They warned him that, even if successful, his life sooner or later must be paid as the price of his temerity. Assistance was volunteered, but not sufficient for the purpose. The authorities were, more than elsewhere, pusillanimous. What was to be done? Must he return baffled, to his associates, his expressed assurance of success an idle boast? Never! at all events not alive.

Most opportunely, after a discouraging day, at the hotel where he was stopping there arrived some twenty miners, long, lusty fellows, with big hearts and bushy heads, *en route* for home.

It was just the material for the purpose. Returning to civilization in the heyday of success, their muscles well strung, their hearts pliable, and their emotions easily excited, to those twenty rough diggers Payran had but to state the object of his mission, when twenty big round oaths pledged twenty honest lives to smash the town, if necessary; at all events to see Payran through. Just before the boat was ready to start they shouldered their packs, and demanded to be shown the child. Proceeding in a body to the house in which the girl was staying, Payran and the woman entered, and after some trouble succeeded in getting the girl to the door. Then each man drawing his revolver, they formed a hollow square, with the woman and her child in the centre. So they all marched down to the boat; and there would have been hot and lively times in Marysville that day had any persons interfered.

Selim Woodworth was more than man in some things and less than man in others. In certain directions he seemed inspired with superhuman instincts and superhuman energy, while in other quarters he was but a boy. He was eminently a good fellow, open of heart and countenance, and of tender sensibilities—not exactly the material one would expect in the captain of a band of stranglers—and it was these qualities, perhaps, that gave him that air of boyishness

which might easily be taken for effeminacy or a nature trifling. But when it came to duty, suddenly all nonsense disappeared, and strength and courage came in all the glorious perfections of developed manhood. In money matters he was the soul of honor. He had much trouble with the squatters, who persisted, like flies about a carcass, in settling on a lot which he owned where the Grand Hotel later stood.

Gerritt W. Ryckman, the third president of the association, was from Albany, New York. He came to California in the steamer *Unicorn*, arriving at San Francisco the 30th October, 1849. I never saw in any human being such reckless indifference to consequences in regard to the penalties to which he subjected himself in participating in such a movement as was manifest in Ryckman. He was well advanced in years when I first saw him; and though his voice was often tremulous in our conversations, his whole frame shook with indignant energy when he talked of the threats and intimidations which were constantly thrown at him. He possessed a wonderful faculty for gaining the confidence of the accused, of winning them over to make a free confession of their guilt, and that without committing himself by promise of pardon or otherwise. The very frankness of his deep determination was contagious. "I will tell you, Mr Ryckman," said one poor fellow to him, "for I know you will do right; but all hell couldn't open my mouth to those others." His very presence inspired faith and invited confidence. His broad face and truthful searching eye; his features, massive with weighty purpose and benignant rectitude; his voice low, kind, but resolute; his step, his bearing, all were indicative of candor, singleness of heart, and conscientiousness, obdurate, but sympathetic and unsinful. Thus it was that, while he hanged these men, they not only feared and respected him, but they almost loved him. If Mr Ryckman had the say about it, they felt in some way they would be freed; and yet this kind inquisitor

of theirs was usually the first to tell them they deserved to hang, and should be hanged.

Often a friendly criminal has warned him: "Have a care, Mr Ryckman; keep your house at night, and take the middle of the street when you walk to it; there are more than one in this town who have sworn to kill you." "Do not be troubled," he would reply; "I have no fear. There is not one of them would kill me if he could. I know it; and I would trust my life as freely among them as elsewhere. They know that what I do is right; that I bear them no malice; that I would do every one of them good; but they must stop stealing, and burning, and butchering, or I shall stop their breath as sure as God made me."

Ryckman's method of interviewing prisoners is worthy of notice. Throwing into his manner an air of confidential yet dignified familiarity, he approached the culprit and opened the conversation with whatever topic he judged might lie nearest the hearer's heart. He would ask him of his former days, of his birth, parentage, and childhood; of his struggles with fortune, his successes, his failures; of his companions, his loves, and hates. Had he a wife, or children? when did he come to California, and what business did he first engage in here? what led him to a life of crime, and who were his associates? Accompanying his skilful probing with that soothing sympathy which was in truth part of his nature, before he had proceeded far, the poor, bruised, heart-broken wretch was ready, nay eager, to tell him all. Might not this bluff but kind-hearted old man become his friend? might he not help him in his sore distress? might he not save him, at least from death? No bad man thinks himself so bad as to be utterly unworthy of sympathy and assistance. How they would beseech him and cling to him for these! And when he offered to write to friends, to forward money or effects, to perform any act of Christian charity—which commissions were always executed to the letter—brute cour-

age and bravado, if indeed they had held out so long, gave way, and the abandoned of his fellows often wept like a child. So, too, almost every one condemned, when he saw the chain of testimony was so complete against him, confessed and signed his confession.

While in active service Mr Ryckman devoted almost his entire time to the work of the Committee. During the nine months from the first of June he devoted scarcely five full days to his own private business. More than once he was dogged about the streets by those who had threatened to assassinate him, but he never was for a moment off his guard. Sometimes he would walk straight up to the scoundrels and warn them to leave the city instantly, and they usually obeyed. They were much more afraid of him than was he of them. He had a way of disguising himself and mingling with them, and then suddenly discovering himself.

Mr Ryckman did not regard the new organization in 1856 with favor. Perhaps a tinge of jealousy colored its character in his eyes. Or it may be, like Robespierre, his willingness to participate in capital punishments increased with age. But society had changed since 1851, and in 1856 a new element, with new leaders, marshalled to the front. "The Vigilance Committee of '56 assumed to be the vigilance of '51," he said to me one day, "but it was not. They came to me to join them and bring the old colors, but I would do neither. I went down to one of their meetings, and I told them they needed some one to govern them instead of their assuming the government of others. I got out of patience with their silky, milky way of managing Terry's case. He ought to have been hanged. I rebuked Coleman very severely for some timid act in the '56 Committee."

Mr Isaac Bluxome junior possessed a warm heart and most genial disposition. Amidst an assembly of jovial companions, his face beaming with good humor and the fun-wrinkles radiating from his eyes, he was

the last person a stranger would take for a 'strangler,' as they of law and order delighted to call the men of vigilance. Malice was a stranger to his heart; no hatred toward his fellow-men was harbored in his breast. In all that solemn assembly of resolute men there was not one who in sincere pity for the poor fellow about to suffer for his crimes excelled him whose duty it was to write the death-warrant.

I knew him well. Many an evening have I sat and listened far into the night to his graphic description of those most stirring days; at which times his whole being seemed ablaze with brilliant memories. Ah! when one's very self is staked on high achievement, and one lives to see the unselfish effort an accomplished fact, who would wish to smother the glow of proud enthusiasm that follows!

I say that Bluxome was the high-priest of good fellows, for I have tasted his companionship. But this was not the dominant quality of his character. His whole nature was instinct with stubborn rectitude. Although there never flitted in my presence one gleam of vindictiveness across his features, I have seen at some cloudy remembrance the flush of mingled pride and pleasure fade from the face, and the glow of kindly fire sink from the outer eye into some unknown depths within, and in their place a fixed and solid stare of inexorable purpose, such as would palsy the tongue of any guilty suppliant. More than life he loved the right, and he alone who sacrilegiously offended it he accounted his enemy. Yet in arriving at conclusions he was most cool, most compassionate. He would not be hurried in forming an opinion. Said a hot-headed member to him one day: "Bluxome, you are on the off side of everything. I believe you are afraid to hang a man!" "Sir," was the reply, "my seat is always at the disposal of this Committee; but while I occupy it, the man does not live who by fair speech or innuendo can move me one hair's breadth from what I deem my duty."

At the time of the first Committee he was young, ardent, active. Now you would find him acting in his official capacity, then off on some thief-hunting expedition, or on board a newly arrived vessel examining the passengers, and again looking after the detail of his ponderous knave-destroying machinery, and to the comfort of his associates. Says quaint old President Payran: "Our worthy secretary, I. Bluxome junior, has given much time and attention to the rearrangement of our committee rooms; to him the sub-committee feel much indebted, and recommend that the thanks of the executive committee be tendered him." Bluxome was an efficient member of the Committee before he was chosen secretary. The multitude of complaints made before the Committee by all sorts of persons required much time and great discrimination in the disposal of them. The large mass of evidence drawn from witnesses in their examinations, and from officers and members on duty, which I have been compelled to examine, throws much light on the spirit and intent of the association; while the reports of special committees, descriptions of uncaught felons, and the confessions of prisoners show with what zeal and conscientiousness the executive committee performed their duties. Often the name of each member of a disreputable family was ascertained, and the age and personal appearance of suspected individuals were kept constantly before the eyes of the vigilant detectives. The places of resort of every notable offender were known to the Committee, their habits were studied, and their movements watched, so that they might be forthcoming when wanted.

During the period from the organization of the Committee in June, 1851, till the 30th of June, 1852, under which date the last entry is made in the book of proceedings, there was constant communication with country committees, and a general watchfulness maintained in every quarter. Suits and demands for

damages and reclamations were instituted, to defend which the ablest counsel was employed. To attempt the punishment of one of the members of the Committee, as such, was to offend all. It made no difference against whom the suit was brought, if its origin was through any act of the Committee, or of any member authorized so to act, the cause was made common, and all expenses of defence or damages were defrayed by the Committee. Neither was there ever any attempt in matters personal to the Committee to disregard the law, or to treat the mandates of the courts with indifference or contempt. The Committee fully recognized the sovereignty of law in the settlement of all disputes; it was only in criminal cases, of interest alike to every member of society, that the Committee took cognizance.

While the ablest members of the legal fraternity were unable, or affected to be unable, to comprehend the scope and spirit of the Committee, it is hardly to be wondered that the more simple-minded should so far mistake its meaning as to look for miracles. Numberless were the instances of application for redress which would have baffled the sedate credulity of Don Quixote. It would seem there had arisen a tribunal that should right every wrong, heal wounded spirits, and minister to minds diseased. One applied to have a squatter driven off his lot; another wanted a doctor hanged for poisoning a patient with medicine; a dozen asked to have their debts collected; and one wrote from Mokelumne Hill, furious at a certain James Watkins, whom he regarded a fit subject for treatment by the Committee because he had insulted his wife!

At a general meeting held in July, 1851, it was agreed that thereafter the general committee should convene the first Mondays of March and September in each year, and at such other times as they should be called together by two taps of the bell, or by published notice signed by the president and secretary

of the executive committee. No person whose dues were in arrears twenty days should be entitled to admission. The executive committee should have power to order and make arrests; to levy assessments; to make or change by-laws; to appoint officers; to try prisoners. All testimony at trials must be taken in writing, and a synopsis of it read at the first general meeting. Such testimony, or any other paper or book belonging to the Committee, should not be mutilated or destroyed, but placed in the hands of the secretary for preservation.

CHAPTER XVII.

VIGILANCE BECOMES A POWER.

God gives manhood but one clew to success,—utter and exact justice; that he guarantees shall be always expediency.

Wendell Phillips.

SILENTLY the self-protective force, long dormant in the body social, now drew round the rooms of the Vigilance Committee the order-loving people of San Francisco. The action of crime upon progressional industry had produced a friction, of which was engendered an electrical movement as natural and subtle as any displayed by the contending forces that play upon the destinies of matter. The affinities and affiliations inherent in elemental particles throughout the universe were manifest in this uprising, and as well might puny man hope to arrest the movement of heavenly bodies by the enactment of laws antagonistic to the primary laws of attraction and repulsion as to stifle the natural impulses of a crime-ridden people by an appeal to the sacredness of statutes.

Although the law in this instance was comfortably tractable and well behaved, there was not lacking that healthful opposition which in social dynamics constitutes the true strength of every reformatory movement. A religious reformation or a political revolution without opposition, were such a thing possible, would be a tame affair. In the war on evil, as in all war, the strength of the reformatory party is in some degree measured by the strength of the opposition; that is to say, in the upheavals of society the strength employed by the overturning element is in proportion to the force to be overturned. There was here just

enough of strength in the law, and in the noisy *quasi* protectors of the dignity of law, to band the people firmly and cause them to walk warily.

It was an unusual sight, the quiet midnight trial and execution of Jenkins, half the city asleep while the other half were rallying to the assistance of impotent law. It can hardly be laid to their charge that they acted hastily, or in a vengeful or blood-thirsty manner. Twenty lives and millions of property had been destroyed at the last fire, which was only one of the many successful attempts of these bold villains to burn the young city, and ruin the industries and commerce of its inhabitants. One or the other now must rule; one or the other must now retire. Long and patiently they had waited on law, but law brought them no relief. A committee of public safety was demanded by the people, and they who hanged Jenkins were earnestly requested not to stop there, but to follow up the work so well begun. The necessity which compelled the deed to be done in darkness was deplored, but the proceedings were fully justified by the press and the people. A large mass-meeting was held on the plaza the night following, in which the citizens were urged to enroll themselves into a committee of safety, and the proceedings of the night previous were ratified. Yet another meeting was held the next night, more boisterous than the former. The opposition at one time gained possession of the stand, but in their turn were driven from it by the reformers. There was much needless speech-making and scuffling, and the proceedings were not regarded with favor by the lovers of healthy reform.

These two demonstrations of popular unrest were without concerted aim or defined action. The first was held on Wednesday evening, and adjourned to the following afternoon. Both were largely attended. Various opinions were expressed as to the late summary proceedings, but there was a large majority in favor of sustaining the action of the Committee. At

these gatherings David C. Broderick, backed by his rough retainers, appeared as the champion of law and order. The vigilant party attempted to offer resolutions in support of the movement, which Broderick determined to defeat. There was but one way to accomplish the purpose, which was to break up the assembly; and Broderick did not for a moment hesitate to resort to such means. Once, when the ayes and noes were called, the Broderick party claimed the vote, which being justly denied them, they made a rush at the speaker's stand, and raised a great uproar. Such meetings were wholly uncalled for, and could not well be productive of beneficial results. They were composed of that part of the population through whose dull brain the idea was just now finding its way that something must be done. Eight thousand such appeared, who listened open-mouthed to the rantings of demagogues, while the Vigilance Committee, the real power, quietly kept its own counsel, and pursued its own way. The conduct of the opposition, however, offered yet another illustration of their many paradoxical ways, wherein they hold to one doctrine and act another. It is the privilege of a free people to go and come at pleasure, to scatter abroad, or to congregate in such place and numbers as they deem fit; and so long as neither treason nor violence is indulged in, neither magistrate nor police can prevent them. Again and again the men of law backed their arguments against lawlessness by lawless deeds; and if, by the hard practical sense of the great unsanctified, their wind-bags of logic were pricked, a martyr's woe elongated their visage.

While the trial of Jenkins was yet in progress many of the best men stepped forward and enrolled themselves members of the association, and after his execution the numbers rapidly swelled. On the 11th of June the Vigilance Committee did not number over one hundred, but immediately after its numbers increased to five hundred, one hundred of whom were

on duty day and night. The organization was complete and effective; their purpose was pursued noiselessly and thoroughly. A fortnight had not elapsed before an entire change was noticed in the state of society. The arm of crime was palsied; an invisible net-work was woven round evil-doers. The vigilance of this new-born justice was sleepless; its jurisdiction extended to all classes and crimes and its agents were silent and ubiquitous. Frequent meetings were held, in which work was given out, and no scoundrel might know when a member of the association was at his elbow. Cool circumspection, earnestness, and energy characterized all the movements of the Committee. Facts concerning criminals were entered as collected in a book kept for that purpose. Among other good works, the Committee undertook to complete the county prison then in progress of construction, but delayed for want of funds. Each of the five hundred members was made responsible for the collection of thirty dollars, thus securing instantly the fifteen thousand dollars lacking to finish the building.

Meanwhile immigration continued to pour in the bad element, and ere long rascality began again to lift its head. Gold had not yet been discovered in Australia, and when the fame of California reached those shores every effort was made to escape from the penal colonies of Great Britain. Ship-masters were ready to take any who would pay. Many who had no means shipped as sailors, and on arrival escaped; and so by divers ways hordes managed to come. Sydneytown was now watched by day and patrolled by night, and the passengers and crews of newly arrived vessels were carefully examined. A ship had arrived early in May with a large load of convicts, some of them with shaved heads. The craft had no port clearance, which indicated that her passengers were smuggled on board. The Committee determined to put an end to such traffic.

In the *California Courier* of June 16th the editor writes:

"All our information from Sydney and other British colonies in the Pacific informs us that a general disposition exists to prevent further colonization there of the convicts of Great Britain, and to rid themselves of those already in the colonies. Owing to this feeling great willingness exists on the part of the public authorities of those colonies to aid in the transportation of that class of people, and as California offers the most tempting inducements for these convicts to expatriate themselves, we are likely to get the heaviest portion of this most degraded population. If the British colonies of the Pacific are to be simply the place where the convicts from Great Britain are to be temporarily disembarked, merely to be reshipped to this part of the United States, California will in the future become the Botany Bay for all her criminal population. The emigration from Sydney during the past month to California has exceeded in number the emigration from all the Atlantic States of this Union for the same period. This is not a declaration made at random, but is made from actual arrivals at this port, and this population is likely to increase monthly to an extent equal to the past month. Evidently heretofore they have been able to burn down the city over our heads some four or five times, destroying some thirty lives and property to the amount of at least $2,000,000. When caught, through their accomplices, they have succeeded in swearing through the courts, to again run at large, and repeat their deeds of darkness and crime with equal avidity and boldness. They are organized into gangs, and have their regular stores, hiding-places, and outposts. We cannot resist them by the slow process of law. We must, therefore, when we catch them committing burglary, theft, murder, or arson, hang them up. If California is to be selected by Great Britain and her British colonies as the habitation of her convicts, we will soon teach her and her dependencies that they are mistaken."

The bark *Chief* entered the harbor of San Francisco the 14th of June with fifteen passengers from Sydney. Only one had a certificate from the American consul, and the rest were believed to be convicts. Objections were made to their landing, but certain respectable citizens vouched for them, and they were permitted to come ashore. The next day a vessel arrived with five passengers, four of whom were women. Even the grim-visaged tribunal in those days was too gallant to raise its front against unprotected woman, though she were a little tainted. Skirted humanity was then too scarce to deny it entrance on the ground of badness; so the Sydney sisters were permitted to land. But much as the

country needed the salt of women, a little of such seasoning went far. Some of the convicts thus arriving had even been granted their liberty on condition that they would leave those parts and not return to England. As we have seen, the Committee now assumed a permanent character. The duties of members, the times of meeting, the order of proceedings, and the crimes of which it was to take cognizance, were more defined. Theft and murder occupied its chief attention, but idlers and suspected persons were narrowly watched. For a time the one hundred members mentioned were sufficient in the field; and these spent day and night hunting criminals, ferreting infamy, inquiring into the character and purpose of suspicious-looking persons, and bringing them before the dread tribunal, which could be convened at any moment for any purpose by the signal-bell stroke. Punishments were graduated according to the offence. To the accused was always granted a trial if he desired it, but notices to quit were sometimes given on well-grounded suspicion. The words employed on such occasions were laconic, but most significant—thus:

"JEREMY DIDLER:,

"You are warned to leave the city within five days.

"By order of THE COMMITTEE OF VIGILANCE.

"No. 67, *Secretary.*"

If this warning was passed unheeded, the person so served was arrested and shipped to Australia or some other foreign port. The executive committee was neither responsible to nor hampered by any other earthly power; it brought its own charges, made its own examinations, and executed its own decrees. Through its instrumentality some were hanged, many were publicly whipped, and many more banished the city. Thus San Francisco was for a short time almost free from professional rogues and scoundrels. The vigilant police boarded vessels arriving from Sydney,

and every passenger was subjected to the most rigid scrutiny. On board were always respectable persons enough to testify against such disreputable characters as may have been their *compagnons de voyage*.

To avoid impositions, and at the same time to secure immediate attention, all notices to quit were served by a sub-committee of three or more members, and were never sent by a messenger or through the mail. Herewith I give a *fac-simile* of a report of the Committee in a case of exile.

On one occasion in June certain so-called respectable lawyers, of perhaps not too translucent consciences, were startled by what purported to be orders from the inquisition to leave their country for their country's good. The Committee was first of all in its endeavor to ferret these forgers.

If the convicts thus arrested by the Committee and ordered back by vessels going to Australia had money of their own, their fare was paid out of it by the Committee. If they had any effects which could be sold, their passage money was raised in that way. If possessed of nothing, the Committee paid the passage.

The Committee were anxious so far as possible to avoid the taking of life, but preferred resorting to banishment or minor corporal punishment as a penalty for crime. Thus during the active operations of this Committee there were about thirty persons, most of them from Sydney or other British colonies, sent from the country, nearly all being returned to the places whence they came.

The citizens of San Francisco in their first Vigilance Committee claimed the most perfect and powerful organization hitherto established in any country for the guarding of the public weal. It was as much a part of their self-imposed duty to prevent the coming to the country of new malefactors as to expel old offenders, and this required sleepless watchfulness and a detective police systematized with no small

In the Matter of George Hopkins

Examination;

Hopkins refused to make any further statements alleging that he knew nothing further of the Matter.

The Executive Committee are of opinion that Geo. Hopkins should be sent out of the Country being fully impressed with the opinion founded on Hopkins knowledge and position with abandoned men, to be a dangerous man in community and therefore present the case with Hopkins recommendation to the General Committee for action

The Committee further recommend that the sentence of Banishment be passed on said Hopkins, under an injunction, that if he ever return to the State of California he shall be punished with death.

San Francisco July 1st 1851
W. L. Brinkley

Isaac Bluxome Jr.
Geo. L. Charles
John T. Stevens
Wm. Tell Graves
Wm. H. Fairwood
S. Brazier
R. A. Watson
E. G. Mann
G. E. Sargent
James F. Curtis

skill. The regular police were resigning one after another from lack of pay for their services. The courts needed purifying and energizing; honest judges were proverbially incapable, the capable were dishonest, and it was no rare occurrence to see both knave and fool written upon the face of one single occupant of the judgment-seat. Legislators were likewise to be reformed. In the last legislature the San Francisco representatives were far below the country members in honesty and intelligence. The numbers, wealth, influence, and energy of the Vigilance Committee gave it almost unlimited power, and to its honor be it said, that power was always used with calmness, mercy, and moderation. Punishment followed closely the heels of crime, and villainy and vagabondage slunk away. Some of the bad characters sought health in the country; some turned honest miners; many preferred to put leagues of ocean between them and this new species of justice. This unheard of trampling on the rights of villains, this closing of their time-honored avenues of escape, this overthrow of legal fogyism, and the application of common-sense to the rulers of justice, was like an epidemic fatal to evil-doers. Law and order, a fat judiciary, and an inefficient police were to them far preferable to a hand-to-hand conflict with aroused and indignant virtue.

The action of the people in the execution of Jenkins was generally sustained by the press and by the pulpit. The Reverends Wheeler and Hunt, of representative churches, both preached sermons upholding the vigilant organization.

Says the *Courier* the 17th of June:

"To show how we are swindled out of our means by rogues, and how the rogues escape punishment, we give the following instance: A man by the name of George Spiers many months since was taken up for highway robbery. The recorder considered the proof so point-blank that he committed him. His case was carried before the grand jury, where he was indicted by the clearest testimony. In fact he was caught in the act. His trial, however, was postponed session after session, until the witnesses left the city, if not

the state. The consequence was that when he was brought up for trial there was no one to testify against him. The district attorney, therefore, entered in his case a *nolle prosequi*, and the prison doors were opened, and he left his confinement to prey again upon the public.

"A few weeks since he was arrested on the charge of murder. He was placed in confinement on the most unquestionable proof of his guilt. The late grand jury, which unfortunately has been declared as illegally impanelled, indicted him for murder on the most reliable evidence. But this indictment, it appears, will amount to nothing. The last steamer carried away the only witness who can prove his guilt and convict him of the crime of murder. Of course our grand jury can never find a bill against him, and he will be permitted to run at large again. In this way felons escape, through the law's delay, to rob and murder us, and burn down our houses for the purpose of plunder. With all these facts staring us in the face we are told that we must permit the law to take its course—let criminal lawyers make from these criminals all they can, and give the felons opportunity to escape. We trust the people will be fooled and deceived no longer, but that they will execute without delay summary vengeance on every man the moment he is caught in the act of robbing, burning houses, or murdering. By so doing we will teach all public offenders that we will visit them with immediate death, and the courts that we have had enough of the law's delay."

"We should address ourselves to the task of purifying the courts," writes the editor of the *Herald* the same day. "Surely no new country ever exhibited such a judiciary."

"It is true," says the *Pacific Star* of the 25th, "that the power claimed and exercised by this Committee may be abused. So may all human power. The courts may abuse their power; the police theirs; and yet this is not a sufficient reason for withholding all power from them. Our reliance is in the honesty and integrity of the men who compose the Committee."

Again the *Herald* of June 21st panegyrizes the people:

"We must declare that never have we heard or read of an organization more thoroughly effective, an association of men so grandly successful in the object of their combination, as have been the Committee of Vigilance of this city. Pursuing their purpose noiselessly, earnestly, and unremittingly, they have effected in twelve days what the courts during the whole of their existence, armed with the thunderbolts of the law, have never been able to accomplish. They have palsied the hand of the assassin and the incendiary, and have encircled the criminals, who publicly defied the law, with a net-work from which all their efforts will not enable them to escape. Their vigilance never sleeps. Their investigations embrace all classes. Their agents are

invisible and ubiquitous. The cribs which have been the nightly rendezvous and daily lurking-places of thieves of every description are all marked, and have received or will receive notice that their nefarious practices will not be longer tolerated. The most notorious scoundrels are ordered to leave the country, and many more are being watched for the purpose of being more thoroughly detected. Criminal correspondence and connection have been traced to men hitherto occupying respectable positions in society, and their exposure has been delayed merely to give time for the accumulation of proof or for their departure from the country. In fine the association have conducted their measures for the protection of the public safety with a cool circumspection, an earnestness, daring, and energy, that must command respect and even admiration. They now number over four hundred of the best men in the city. One fourth of this force is constantly on duty day and night, and each particular member seems to have devoted himself to the discharge of his duty with an enlightened zeal that has produced the most surprising results. The testimony already collected fills a large volume, and has occupied the exclusive attention of one man in transcribing. The Committee commenced with making a notable and severe example. It had the effect of proving that they were in earnest in the prosecution of the work they had undertaken. Since that time they have been employed in bringing to light the various places of resort of the criminals still at large. A large number of these cribs, as they are called, have been discovered, and after being duly warned have been closed."

It will be noticed that the editor speaks at random with regard to some of his facts, but in sentiment he is right. Their quarters in Brannan's buildings, corner of Bush and Sansome streets being inadequate for the accommodation of their increased numbers, the Committee secured from Bullitt, Patrick, and Dow, the upper rooms of two large frame buildings on Battery street, between California and Pine streets. These were thrown into one and fitted up for the meetings of the general body, and separate rooms were partitioned for the smaller committees. The cost of alterations and furnishing was about one thousand dollars, and the rent was four hundred dollars a month. The Committee began to occupy these rooms the 18th of June, though the carpenters did not complete their work before the 25th. Of the sub-committee rooms there were four, furnished with tables, speakers' desks, chairs, and benches. Heavy bolts were put upon the doors, bells hung, and writing material, hand-

cuffs, and chains supplied. There were also sleeping-places for the watchmen arranged. The 18th of September, when business had fallen off materially, the Committee, in order to reduce their expenses, again removed to the corner of Sansome and Sacramento streets, to the premises of John Middleton, where the rent was one hundred dollars a month. In these rooms matting was put upon the floors, the walls were papered, and the new quarters presented quite a respectable appearance.

Signals were now arranged, and a committee appointed to wait on the foremen of the California and Monumental fire-engine companies to ask the use of their bells for the purpose of calling the members together, to which request cordial assent was given. I shall speak at length hereafter of the committees of vigilance, modelled after the San Francisco Committee, which were established throughout California.

At this time it was difficult—so the defenders of criminals at all events made it appear—to obtain respectable jurors to sit in court cases, on the ground of sympathy with the vigilance movement. From the stand-point of to-day it strikes one as a little singular that the law should reject respectable men as jurors on the ground of their sympathy with justice. More particularly is the inconsistency of the thing apparent when we reflect that by every blandishment the men of vigilance had been urged to trust the courts, to act as aids and auxiliaries to the courts, and that when summoned to sit in judgment on such cases as they did leave to the courts they were told that they could not render an impartial decision. That such objections were made by the defence, rather than by the prosecution, is *prima facie* evidence that the objectors sought safety under cover of the law's subtleties, and for further defeating the ends of justice.

CHAPTER XVIII.

ENTER JAMES STUART.

The most stormy ebullitions of passion, from blasphemy to murder, are less terrific than one single act of cool villainy; a still rabies is more dangerous than the paroxysms of a fever. Fear the boisterous savage of passion less than the sedately grinning villain.

Lavater.

James Stuart was a villain. A great villain. He was born a villain; he achieved villainy; and if villainy was not thrust upon him, he had no hesitation in thrusting it upon others. His childhood was instinct with misbehavior. Every wickedness the human heart is heir to has its redeeming quality. Through mismanagement on the part of nature all the virtues intended for use in the manufacture of James Stuart fell into the composition of some other mortal. There are gentle knaves and there are scurvy knaves; James Stuart was of the latter class. There are magnificent scoundrels and there are mean scoundrels; James Stuart belonged to the latter category. He was a *lusus naturæ* of the sulphurous order. His rascality was of the cold and calculating kind. All men were his friends, and all his foes. He would sacrifice a comrade as quickly as an enemy; with the utmost nonchalance he would see innocent Thomas Burdue suffer agonies of torture, for crimes which he himself had committed.

Often vice is only the decadence of some virtue; but in James Stuart obduracy and atrocity were weeds of indigenous growth. Such was the alchemy of his constitution that those ennobling influences incident to every environment, when infused in him,

putrefied and infected the atmosphere in which he moved like a disease. Socrates had his Xenophon, Johnson his Boswell; but woe to the historian, abandoned of heaven, who must needs dive into the depths to chronicle the deeds of this most graceless of miscreants! One becomes as tired of his malefactions as were the Athenians of hearing Aristides called the Just.

Between *mala in se* or intrinsic badness, and *mala prohibita* or violation of conventionalisms, few make proper distinction. Indeed, there are many good men and women who will forgive a crime against morality sooner than a violation of good breeding. For the saintly caitiff hides his misbehavior beneath a fair complexion; with ill-gotten gains he buys honors and influence, and while indulging in low immoralities fails not to assume the character which will secure him further grovelling gratifications. In all this there is little of that ideal justice of which poets sing, wherein the good are always happy and the evil-minded unsuccessful. Religion fails to enforce correct conduct, and reason is not yet strong enough wholly to practise a utilitarian code of ethics. Different men, and ages, and beliefs, derive their rules of conduct from different sources. Conscience-making as a trade the gods find dull as the vision of science grows stronger. We of to-day seem near completing the circle of morality, seem to be nearing the point the savage started from, and referring back all obligation to the law of nature. The divine law of the ecclesiastic, the patriarchal law of the household, and the political law of society, however they may retain their hold on personal conduct, fetter mind far less than formerly.

Saint Paul found himself amidst a whirlpool of opposing forces, fleshly laws rising within him antagonistic to spiritual laws, the law of his members warring against the higher law of mind. James Stuart likewise found his unworthy craft buffeted by winds of

doctrine strange in Sydney. The law that should hang Burdue in his place he could understand; he liked that. The regular course of things, the common statutory currents and legislative trade-winds, he could sail safely enough before; but these disinheriting guardians of political pets, of children of the corporation; these men of vigilance, who interpose their uncivil veto to the regular course of criminal law, what shall be said of them? They were, indeed, a flat imposition.

Stuart was not only able, but talented. A very mean man is seldom weak; more genius, more strength of character is necessary in order to become a great bad man than a great good man. The greater the cunning of thieves, the greater the skill required by the police. As civilization seems to intensify and render more acute absurdity and error, as well as reason and right, so the tendency of organisms, as they become more complex and refined, seems to increase in their capabilities of catching and eating, and in avoiding being caught and eaten.

Early in July, before the Burdue-Stuart mystery was fairly solved, the Vigilance Committee of San Francisco wrote the Vigilance Committee of Marysville that in their opinion Burdue was innocent. The Marysville Committee could not believe it, and begged the San Francisco Committee to take no steps which might lead to the letting loose of a murderer upon the community. Thereupon the San Francisco Committee despatched a messenger to Marysville to ask suspension of further action until the case could be thoroughly investigated. Francis Land, counsel for the condemned, proceeded to San Francisco for information. These several investigations were not without their effect upon the court. A new trial being granted, a *nolle prosequi* was entered. Burdue was discharged from the Marysville court and brought to San Francisco in the early part of August. There he was lodged in prison. On the 25th of August, after the evidence of Stuart and Whitaker had been

given, Frederick Woodworth, George Mellus, Isaac Bluxome junior, and John F. Spence made affidavit before Ned McGowan, judge, of the fact that Burdue was innocent of the charges preferred against him. Thereupon an order was made by the district court, transferring the case to the court of sessions, into which Burdue was brought the same day and discharged from custody.

While Thomas Burdue was yet in San Francisco undergoing trial for the robbery of Jansen, that is to say, on the 28th of February, 1851, Frank M. Pixley came forward and made oath that the prisoner was not James Stuart, whom he had defended on several occasions, and whom he ought to know. Although this did not satisfy the court and jury sufficiently to secure Burdue's discharge, it made a mystery of the matter, and so excited suspicions of the possible innocence of Burdue that certain members of the Vigilance Committee determined to ferret the affair.

The shortest way to this end was to secure the person of the Sacramento shop-breaker, the Foster Bar murderer, the robber of Dodge, and the convict of the Sacramento prison brig—to secure the person of him who had committed these crimes, whosoever that might be; for at the same time that Mr Pixley swore Burdue was not the Stuart of these exploits, Dr Holmes of Foster Bar, officer Trueman of Sacramento, and others asserted that he was. Clearly amidst all this conflict of evidence the only way to solve the mystery was to find the real culprit. If Burdue was not the felon, who was he, and where was Stuart? Much depended upon the answer; the life, perhaps, of an innocent man, and the escape of a notorious offender.

Mr Pixley seemed to be the only one in San Francisco who was positive that Burdue was not Stuart, though at the second trial there were a number in Sacramento who were sure of it; and yet the jury convicted him. While Pixley did not scruple to clear

the guilty if he could, for of such his law told him was its kingdom, yet he would not wittingly see the innocent suffer. Therefore, while he would not say or do anything which would implicate his client or lead to his arrest, he did not hesitate solemnly and positively to assure, not only the court but the Vigilance Committee, that this prisoner was not guilty of the crimes laid at his door.

Meanwhile the Marysville Vigilance Committee were skeptical as to Burdue's innocence; yet after the trial, and while he was there lying in prison under condemnation of death, the Marysville Committee came out nobly in his behalf, and between the two committees no less than fifteen persons were found who said that, whoever the prisoner might be, he was not the renowned James Stuart. But the law, roused from its lethargy by the murmurings of the people, was determined on action. Many respectable members of the commonwealth, advocating capital punishment, had banded in every town to execute it. Now if they wanted hanging done, the law could do it. So said its officers from the beginning. The whole country was excited on the subject; it was the thing to do to shed some blood. The autumn elections were approaching, and the hanging judge would be the popular candidate. Here was an opportunity too good to be lost. This man has neither money nor friends; even if he is not the guilty person, he ought to be hanged for looking so much like him and mystifying the court. Witnesses say that the real James Stuart is five feet nine inches in height, while the prisoner is but five feet six and three quarters inches; but then sorrow and confinement are apt to cause shrinkage, especially in one not guilty of the crime for which he is condemned. Besides, is it not better that an innocent person should now and then be put to death than that no example at all should be made? Thus within itself might the law have communed, judging from its actions.

The San Francisco Committee were by this time thoroughly convinced of the innocence of Burdue, and they determined to redouble their exertions to find the real Stuart. They had his likeness in the unfortunate Burdue; their police and patrols had but to look upon him and then hunt Stuart. Country committees were placed in possession of the facts, and were begged to lend their immediate aid to save the innocent and bring to punishment the guilty. It was probable that Stuart was in or near San Francisco. He could not have left the state unknown, for every departure by water was watched, and he would scarcely travel overland, as the men of Sydney seldom migrated far from seaport towns. Besides, where would he find a better country, one richer in stealings or more backward in punishment? Then, too, by this time the acts of Stuart were so notorious, and his person so well known from Yreka to San Diego, that the only place at all tenantable for him was San Francisco. Therefore the sons of the Watchful Eye were charged by their elders to find the villain.

Wonderfully intricate are the ways that lead to simple ends! Here is all the country hunting this man, when one day he drops almost of his own accord into the maw of the new patent crime-crusher, and that for an offence which he did not commit. Honest men wonder at the foolishness of shrewd scoundrels; but may not scoundrels with equal propriety wonder at the foolishness of shrewd honest men?

Between ten and eleven o'clock on the morning of July 2d a house at the Mission was entered and a trunk abstracted. The owner, learning of his loss, raised the alarm. Just then it was ascertained that a tent on California-street hill, near where Grace Church was afterward placed, had been robbed. Three or four men set out in different directions in pursuit of the thieves and for the recovery of the plunder. They at once made their way up the hill and into the chaparral. The bushy suburbs of San Francisco were

at that time infested with thriftless and shiftless human vermin. The town was not so large then as now, and it offered less security before determined search. The suburban districts, with their sand-hills and hollows thickly matted with small trees and bushes, beneath which, with a pair of blankets, one might safely and comfortably sleep away the summer, were the favorite resorts of thieves, who found in these quarters combined security and convenient proximity to fields of enterprise. The quail and hare of these parts were often surprised, and so occasionally were the thieves, although it was a most difficult place to hunt them in, as there were large patches of undergrowth which neither horse nor man could easily penetrate, and the surest way to investigate such spots was by sending in a well trained dog.

Somewhere near what is now the corner of Powell and California streets, some distance from the road leading from the Mission to the city, the owner of the lost trunk came upon one who excited his suspicions. He was first seen standing on a knoll, looking toward the city; he hesitated for a moment, then turned and hurried away in the opposite direction. Calling to some carpenters who were at work on the hill, the owner of the lost trunk briefly related the circumstances and pointed to the stranger. To a casual or unsuspicious observer it was an exceedingly commonplace thing for workingmen of the city strolling in the suburbs to meet one who from his dress might be a miner waiting for the sailing of the steamer or for the arrival of his wife, or who might be a country trader, or a ranchero, or any one of a dozen other respectable callings. The town was always full of honest strangers coming and going, paying their way, and minding their own business. In this instance the person suspected was wholly innocent of the theft; and yet there was that about him which assured the workingmen that they had found the one they sought; and the wanderer believed

that they knew him, believed that his doom was sealed. But defeat is the last thing a politician or a thief will acknowledge to himself or to another.

Of medium height and symmetrical figure, with a bright burning eye, hissing speech, and biting smile, the stranger looked the accomplished reynard, which indeed he was, except when called upon to act the hungry hyena. Over a clean gray woollen shirt, covering also one of linen, he wore an English-cut coat, well fitting light pantaloons tucked inside his boot-tops, and a narrow-brimmed round-top hat. Fastened to his belt, and covered by his coat, were a bowie-knife and revolver of fine finish and in perfect order. In his dress, carriage, and general appearance there was that which, to a villain-hunter, immediately stamped him as his prey.

Witness the windings of the game now played. Here was a thief; so far the man who had lost his trunk was right. But this was not the thief he sought; of this the present guilty one was not aware. Accompanied by one of the carpenters, the owner of the lost trunk advanced and called to the man, who turned and walked toward them.

"Good-day, stranger."

"Good-day."

"Do you live about here?"

"No."

"What are you doing in this neighborhood?"

"I am on my way from the Mission to North Beach."

"This is not the road. Two houses have been robbed near by this morning. Where did you get the clothes you have on?"

"What! the devil! Who are you?" exclaimed the man, as his hand sought his revolver. But instantly two cocked pistols were at his head, and further movement of his hand behind him he well knew was death. It was the custom then for mechanics as well as others to carry pistols.

"I know nothing of your robbery," said the man, as he threw up his hands. "These clothes I have worn ever since I left Sonora. I saw somebody with a bundle but a moment since disappear over yonder hill. I tell you I am not the one you seek."

"Listen to me, my friend," said the Mission man. "You say you have worn these clothes from Sonora, and that you have walked some distance this morning. That is not true. The weather is warm; the roads are dusty. Your boots are not sufficiently travel-stained, your linen shirt is clean, and the woollen over-shirt you wear carries yet the creases of its original folding. You must come with us to the rooms of the Vigilance Committee, and if you are an honest man you have nothing to fear."

On the instant the course he should adopt flashed upon the captured criminal. There are moments when the future rises before the mind like Aladdin's castle; when the ordinary paths of life are so hedged by untoward circumstances that some supernatural bound seems the only means of escape. Many were implicated with him, and these might rally to his rescue. Oftentimes before he had surmounted difficulties apparently superior to this, had lain in prison condemned to death, had stood beneath the gallows-tree with the rope around his neck, the central figure of an infuriated mob; and yet he was alive, and but a moment before free. At all events his present course was plain to him.

"I have often heard of your famous Vigilance Committee," said he, with a smile of sardonic sweetness. "I am anxious to see something of it, and will accompany you with pleasure."

Arrived at the committee room he gave his name as Stevens; afterward he wrote it Stephens. Those present recognized immediately the strange likeness he bore to the condemned Burdue, and to the descriptions of the infamous James Stuart. Mr Payran was in attendance, and he questioned him. Payran

prided himself on his catechetical abilities. He was the Torquemada of the San Francisco Inquisition; and although in the exercise of the holy office he applied to his victims neither fire, nor water, nor the cord, yet as a rule he managed in the end to obtain a true confession, as I have said before. His test of truth was only his own shrewd common-sense, discrimination, and practical sagacity; and in his original and searching analyses of criminal character he had acquired a skill which seldom led him astray. It was his custom first of all to hold a private conference with his prisoner, during which he would talk with ease and freedom on subjects such as would likely most interest his listener, meanwhile watching his countenance, noting his every word and action; and thus he would continue to feel for salient points, and sound his deeper nature, until the responsive chord was struck; and when his victim's tongue was loosed he would listen attentively, merely dropping now and then a remark to keep it going; and this unruly member was the rope with which in the end the offender was sure to hang himself. Different cases he would treat differently, being governed severally by the nature of the case and by circumstance. In this instance he had a malignant subject; but such were his special delight. A first-class felon in a measure commanded his respect; to convict such an one he had time, patience, and money. A monster ruffian was easier treated than a petty vagabond; large crimes were wider known and more easily proven than small ones.

The executive committee was then convened and the prisoner put on trial. It was a matter of no small moment how this case should be handled. The greatest obstacle to the complete success of the Committee was the confederate crust that shut from them the mysteries of the class with which they were at war. One well aimed blow might shiver a score of tenements, brittle with fragile guilt. Possessed of

numbers, money, strength, it was the earnest wish of these busy men of merchandise to achieve swift success and have done with it. Here was one, if it prove true, indeed, that he was Stuart, than whom there was not another on the coast as familiar with crime and criminals. This they knew from the reports of his exploits, which came in from every quarter. They had found something of what was called honor among thieves. Jenkins would tell them nothing, splendid brute that he was. But like many of our most respectable money manipulators who sail to the leeward of law, Stuart, perhaps, was one of those great rascals who was true to his confederates only so long as it was to his interest to be so. If the right chord was struck might he not tell all he knew?

With this object in view, the Committee determined to use extraordinary care in their investigations. At the trial John Sullivan testified that he had worked with the prisoner at Foster Bar and elsewhere; that he knew him as English Jim and Jim Stuart. The prisoner flatly denied ever having seen the witness, and told of himself a far different story.

This John Sullivan was now a boatman; he had assisted at the capture of Jenkins, and had since joined the Vigilance Committee. It happened that when Stuart was placed in confinement at the committee rooms Sullivan had been appointed to guard him. On taking his position, naturally enough he opened the door of the room to see what sort of wickedness was within. Crouching in the corner of the room, to his astonishment he beheld his old employer.

"Halloo, Jim!" he exclaimed. "How came you here? You needn't pretend not to know me!"

Shortly after Mr Schenck passed by. "Do you know whom you have here?" said Sullivan.

"What do you mean?" demanded Schenck.

"This is no other than English Jim, or Jim Stuart, in this room," replied Sullivan; "he who murdered the sheriff at Auburn. I was present at the attempted

lynching at Marysville, when the rope broke and he escaped."

From another witness was obtained a statement to this effect: At Campo Seco early in 1851 had lived a miner in a cabin alone. He had accumulated a large bag of gold dust, and fearful lest his house should be robbed, he had buried it some three hundred yards distant in the chaparral. One morning about five o'clock he heard a noise, and soon discovered a man prowling about the premises. He ordered the intruder off, cooked his breakfast, and went to work. But thinking of the matter during the day, he became timid, and asked a friend to whom he explained matters to lodge with him. The friend said: "No, lest we both be murdered for your money; rather come you and sleep in my house." The man did so; and true to his forebodings his cabin was entered that night and the ground dug up both in and around it, but the robber found little to repay him for his trouble. This miner seeing Stuart at San Francisco pronounced him the man whom he saw at his house on the morning mentioned. The Mission man then gave an account of the arrest; but this amounted to nothing. Others were examined on different charges brought against him, but their evidence was of a character not satisfactory to the Committee, and the prisoner, so far as these charges were concerned, was evidently getting the better of the trial.

The Committee now retired for a time, and the matter was left more directly with Payran. Often one mind in the management of an intricate case is better than a score. In dealing with human nature the greatest experts often act upon instinct, and are unable to give a reason for what they do.

Fortunately at this time there were others in the city who had seen Stuart in some one of his many misbehaviors, and the condition of Burdue threw round the affair a lively interest, for it was now the openly avowed opinion of many that the Marysville

judge had sentenced to death an innocent man. While talking now like a father-confessor, now as a judge, and then again as a pleasant companion, the wily inquisitor, unknown to his prisoner, sent messages to five or six of those whom he thought able to throw some light on the matter, requesting their immediate presence. The calls were promptly answered; and as these gentlemen arrived they were secretly admitted and shown into another room.

Payran began again to talk with the prisoner. He was now prepared to give his questions a more peremptory tone. Up to this time the man of sin and his interlocutor had carried on what would appear to an observer an ordinary conversation; yet each played a deep game. The stake of one was his life, of the other the lives of his fellow-citizens. Gradually nearing his point, Payran pressed his queries concerning the Jansen robbery, the Foster Bar murder, and the Marysville trial. The prisoner was at a loss to see how these remarks applied to him; he was not Stuart; his name was Stephens. True, he had come from Sydney; so had many another honest man. "Unfortunately," sighed Stuart, "there exists a strange prejudice in California against emigrants from British colonies. This is hardly just; there are bad men in all communities. The Pike county people, as they are called, that is to say emigrants from the Missourian frontier, are as bad a lot as any from Australia. In intelligence they are little above the beasts they drive across the plains; in filthiness both men and women are far below them. They do little scientific stealing, because they haven't the ability. Why, I have seen," continued Stuart warming, "I have seen their skin-cracked, tangle-headed, barefooted, bag-breasted, and alkali-seasoned women, who had driven their cow-teams from Independence, take from a store a whole barrel of salt pork, just as if they had bought it, carry it to their camp, and open and eat it before the very eyes of the trader. It is

blockheaded and base bunglers like these that bring discredit on a country."

But this was treading on dangerous ground, and Payran failed not to note the enthusiasm of the accomplished professional in the recital. The prisoner was intelligent, of easy manner, and was a fluent and by no means uninteresting or illogical speaker. He persistently separated himself from the felon Stuart, and from all connection with wrong-doing; he had engaged in mining and trading in various parts with varying success, and was now about to stock a ranch which he owned in San Luis Obispo county.

Finally Payran squarely faced him and said: "Stuart, I am perfectly well aware that every word you have told me is false; but I shall get the truth from you before I am through with you." From the prisoner's eye there shot that strange sulphurous light peculiar to him. Upon the table near Payran lay a loaded revolver, and the inquisitor fancied he saw the felon's hand moving cautiously toward it. Without appearing to notice him Payran took the pistol and slipped it into the table-drawer by which he was sitting. Fixing upon him the most searching gaze, Payran said: "Do I understand you to affirm that you are not the man called James Stuart, and that you are not guilty of the crimes of robbery and murder?"

"Most emphatically I do," was the reply.

Payran then gave a signal to the sergeant-at-arms attending, and the witnesses, of whose presence up to this time the prisoner was ignorant, entered. In spite of his effort at composure, when he saw himself thus confronted the face of Stuart turned pale as death. There were standing before him George Mason, who had worked with him at Foster Bar, and who had testified at the Marysville trial that Burdue was not Stuart; also Charles Hughes, who was present at Stuart's examination before Judge Stidger for the robbery of Dodge and Company;

also George Hunt, who said he could identify him by his speech alone.

"Stuart, do you know these men, or any one of them?" demanded Payran.

"I do not," gasped the unhappy wretch.

"Did you never see this gentleman before?" pointing to one of them.

"Never."

"Nor this?"

"No."

Then turning to one of the witnesses the inquisitor asked:

"Do you know this man?"

"I do," was the reply.

"State where and under what circumstances you have seen him."

"I saw him at Sacramento while undergoing trial for house-breaking."

Another witness was examined who saw him at another place; then yet another. Meanwhile passion, of that sanguinary hue which defies control, mounted to the prisoner's face, and with glaring eyes and that hissing voice of his thickened with the throes of emotions maledict, he cried:

"Well, then, may the devil damn you all, I am James Stuart! Now do your worst!"

Sinking back into the chair from which he had risen, the prisoner was an altered man. The gleam of mingled assurance and defiance that so lately played about his face had entirely disappeared, and in its place sullen hate had settled. The last few words which he had spoken was as the yielding up of his guilty ghost.

"Stuart," said Payran, "you have got to die, and speedily. Of that you may be assured; no earthly power can save you. It is in no spirit of revenge or hate that we shall hang you. Between such as we and such as you there must of necessity be war. If all were vultures there would be no victims; all may

be good, but all cannot be bad. We do not mean always to live the prey of such as you. We must defend ourselves. You have played your game, and have played it well; you knew the risks of it before you took them, and up to this time you have been remarkably successful in your escapes. Now your time has come. During your few remaining hours in the body everything shall be done that we can do to minister to your temporal and spiritual interests. Any letters which you may desire shall be written, any business affairs which you may intrust to us will be executed more honestly, perhaps, than you would attend to our business. One thing we would like from you—a full and free confession. This can be no loss to you, while it may be a gain to society."

"But, sir," said Stuart, "this is no trial; you would not dare to execute me on the strength of this unlawful farce!"

"Sir," said Payran, "we, the people, are superior to law; entertain no hope; rest assured you shall never leave our hands alive. We will give you a further trial if you wish it. You may have your counsel, summon your witnesses, and prove yourself innocent if you can. You know whether such a course would avail you anything; we think it unnecessary."

While Payran was speaking, and for a few moments after, Stuart sat stooping with his face buried in his hands. Finally raising his head he said:

"Well, I will do it, damn 'em; there are some of them I will get even with anyway!"

Frank M. Pixley, formerly counsellor for Stuart, was now attorney for the city of San Francisco, and he deemed it his duty to do something. First he asked the supreme court to grant a writ of *habeas corpus* to bring into court James Stuart. The writ was issued, but, strange to say, the sheriff seemed in no haste to make return. Then Mr Pixley rose in court and requested that a rule on the sheriff be

issued to make his return, which was done. This was the 9th of July.

The same day the sheriff filed his return, endorsed as served by leaving copies with several members of the Vigilance Committee. Again rose Pixley in court and begged another *habeas corpus* writ to bring thither certain members of an organization styling itself the Committee of Vigilance, to show cause why they illegally detained the body of James Stuart. The writ was granted, and returned by the sheriff, with J. L. Van Bokkelen, W. H. Jones, A. J. McDuffie, and other members of the Committee in answer. These gentlemen filed affidavits that the body of James Stuart was not in their possession, and was not at the time of serving the writ; whereupon Mr Pixley made a motion to discontinue proceedings, which was readily granted, and the gentlemen were discharged.

This was well enough so far as it went, but it did not satisfy Mr Pixley. He now filed an affidavit stating that, to the best of his knowledge and belief, the person of James Stuart was in the custody of the Committee of Vigilance, in the building then occupied by them, and asked that a warrant be issued to bring Stuart into court. The warrant was issued immediately. The sheriff set out upon his mission. Members of the Committee smiled upon him and offered their assistance. The owner of the buildings accompanied him, threw open all the doors, bade him carefully examine every nook and corner, and bade him search until his heart and Pixley's were satisfied. And so he did, he and his deputies, but they found nothing. There were the affable members of the alleged Committee, reading, chatting, smoking, apparently enjoying themselves as at a club. But no James Stuart was forthcoming. And so the law's messengers reported to their masters. And Pixley was angry. He desired to make the Committee responsible, but the court ruled that with the Vigilance

Committee, as such, it being an unincorporated body, the law had nothing to do. Then went Pixley for the members again. McDuffie's name was not down in the writ, so he was discharged. Jones likewise was allowed to depart. Van Bokkelen swore that he had not then, nor did have when the writ was served on him, nor did he ever have, the custody or control of such a man as James Stuart. Pixley lifted high the arm of law to let it fall on Van Bokkelen, for he was sure that if he would he could touch the spring which should display the coveted carcass of the murderer. But no; he would be magnanimous; he would not crush one man for the sins of many. Clemency engendereth complacency. Pixley was pacified.

Now what had done these men of work and merchandise, to whom the *habeas corpus* was the most holy of writs, and disobedience thereto more fearful than the unheeded fulminations of the Vatican to image-worshippers? Nothing. They knew nothing. It was their business just then to know nothing, and they did it well. Unwilling to oppose that wise provision of our constitution which secures to every citizen the right when arrested to be brought before his accusers; unwilling to disobey any mandate of legalized authority which they could consistently with their predetermined course avoid, they did the best possible thing under the circumstances—they delivered themselves from temptation. They would not hesitate a moment to deny the service of such a writ should it be necessary, for they had staked their lives upon the success of this crusade, but it was better not to be obliged to do so. Knowing that the *habeas corpus* man was coming, they simply spirited their prisoner away. Bluxome and Oakes took him first, and throwing over him a long cloak and a slouched hat, they thrust him into a carriage and drove away, no one but themselves at the time knew whither. The moment it became necessary for them to know nothing, two others as trustworthy as themselves were sent, having

always at their command guards sufficient for the purpose, and instantly Stuart was removed to a place unknown to the first confederates; and so he was passed from one to another, the one having charge of him to-day not knowing his whereabouts to-morrow, until the ruffled dignity of the law was soothed; and then they brought him back to the committee rooms.

Mr Bluxome informs me that on setting out with Stuart two pistols were shown him, and he was told that if he attempted to escape he would be shot. He was first taken to the building of Endicott and Oakes, on First street, between Market and Mission. Mr Endicott, then alderman, was absent at the time. When he came home and found there the well guarded criminal, he proceeded to the committee rooms and said: "This will never do! I am a city official, and have taken the oath to support the government." Reuben Maloney, a member of the first Committee, then said: "I will take him." Among Reuben's miscellaneous acquaintance was a female friend. In her house the prisonless criminal, still strongly guarded, was lodged. But Aspasia became alarmed at her position between the law, which she herself loved not overmuch, and the facile object of its vengeance, who might slip his chains, and murder and rob her at any moment. She told Reuben that their guest must depart. So Stuart was taken elsewhere, and was kept moving from one to another, as before stated.

CHAPTER XIX.

EXIT JAMES STUART.

So, naturalists observe, a flea
Has smaller fleas that on him prey;
And these have smaller still to bite 'em;
And so proceed *ad infinitum.*

Swift.

When the time came for taking Stuart's confession the prisoner seemed more eager and animated than any one present. To him there was no little gratification in the thought that if he must die, he died at least for something, and the world should know it. At his last lifting, all the people should raise their eyes and behold the greatest of scoundrels; the journals of the day should be filled with his exploits; the common ranks of thievery should hang their envious heads; and thenceforth all mankind should know that in the vocabulary of renown next to honest greatness stands the greatness of dishonesty.

Stuart now regarded the making of a confession a privilege. "I myself assisted," says Coleman, "as one of the executive committee, in hearing and recording this confession; we sat through the night, and until the morning sun shone in at the window, before it was completed. He went through the whole range of his many rascalities, gave vivid descriptions of his adventures, entering with great zest into the details; and it was curious to see his eyes brighten and twinkle, and a smile play round his facile countenance, when describing his best successes. He threw off all restraint, and recounted his jobs as if bringing to light a brilliant record which had heretofore been

kept necessarily in the dark. His guilt being so plain, and the volume of it so vast, it seemed as if the life of one man was insufficient to atone for it all."

"It now came out," says Schenck, "that Stuart was a member of a gang of nine, who had been concerned in various robberies and assaults, composed of T. Belcher Kay, who was port-warden at the time, John Morris Morgan, Whittaker, McKensie, Jack Edwards, Jim Stuart, Benjamin Lewis, Jimmy-from-Town, and one other, whose name I do not now remember. They had a plan to rob F. Argenti's bank, and also F. W. Macondray's store. Kay was one of the leading spirits, and by virtue of his office of port-warden he had occasion to visit frequently Macondray and Company, and he took these opportunities to ascertain what money was in the safe. The book-keeper suspected something and advised a stronger guard; and there were fourteen persons there the night the gang had appointed to rob the building. The band at one time rented the Alhambra, corner of Kearny and Washington streets, opposite the El Dorado building, a gambling-house which stood on the south-east corner of the same streets, and opposite also the building used for the custom-house after the fire of May, 1850, which was on the north-west corner of the two streets, and in whose vaults were then two or three millions of dollars. John Morris Morgan, a member of the gang, was a brick-mason, and had worked in the construction of the vaults of the building to which the custom-house was removed. The plan was to cut a trench, underneath the street, from the Alhambra building to the custom-house building for the purpose of the robbery, and then carry another trench from the custom-house across to the El Dorado. After the proposed robbery had been accomplished the first trench was to be closed up and the other kept open to avoid suspicion." Of this fraternity Stuart was the leading spirit.

But I will let the man speak for himself. His

career vividly illustrates the high-pressure principle of crime in California during this reign of terror:

"I was born in Brighton, England, in March, 1820. When I was sixteen years of age I committed forgery, and was banished to New South Wales for life. My friends interceded and procured my emancipation. From there I went to South Australia; finally reached Panamá, and shipping in the *Tennessee* came to San Francisco in the spring of 1850. I immediately left for Sacramento; then went to Marysville, and next day to Foster Bar. There I joined the Rock Mining Company and worked with them for a month. I hired Sullivan, the witness who appeared against me, and we worked together for some time in various places. I bought a claim of a mining company for which I paid $300; I also bought a life-boat for $400 which was used on half shares as a ferry-boat by another company. I lent the Missouri Company $300. Down the river I had a row with Colonel Prentiss, and left the place for Foster Bar, where I determined to locate. From my ferry-boat I was receiving about six dollars a day, and the claim for which I paid $300 was yielding me from ten to twelve daily. At Foster Bar two of us made a garden, and that paid us well. I built myself a house, where I had a store, with Bernard Feather, a German, as my partner. I also commenced building the largest house in the place, for a boarding-house, but never finished it. I was already tired of this quiet uneventful life. The Missouri Company closed their business and left the place without paying me. Of one of the company, Daniel Casey, I bought everything they had left. I searched their house, and finding a trunk open, full of clothes, I appropriated the contents to my own use. I was afterward arrested for having stolen the trunk; an unjust accusation, for having bought all that was in the house I considered the trunk my rightful property.

"The night after I took the clothing I went to Captain Dodge's house and played monte, where I lost $200. I felt that I had been cheated, and determined that I would get even with him. I watched him closely that night from an adjoining tent, and saw him put his money into a chest. Waiting until they were asleep I entered the tent and carried off the chest. I found $4300; there was one piece of gold worth $1568, another worth $738; the rest was in dust, with the exception of about $600 in silver. I took it all home, secreted the most of it in my garden, and resumed my work as usual. In about ten days I was arrested for having stolen the trunk, and paid at once the $500 bail. Three days after I was again arrested on a charge of grand larceny for stealing the $4300, and was committed to jail in Marysville. There was great excitement; the mob was determined to hang me, but the judge had me safely guarded by sixty men. The next morning Captain Dodge came to me and said if I would give him the money he would let me off and see that I was not molested. I was uncertain what course to pursue; but when I was told that his wife and children were suffering at home I concluded to give it up, all but $150, which I said I had lost. During the remainder of the day I stayed with the sheriff, Edward Barr; sold all my things immediately at auction, depositing the money, $170, with him. In the evening the sheriff went out to collect some of the money. While he was gone his cook advised me to

leave the place at once. I told him I couldn't go without money; the cook replied that if he was in my place he wouldn't risk delay a moment. I started at once for Sacramento, walking three miles. I had no money to buy a horse, so I stole one. The next day I sold it in Sacramento, where I remained a fortnight. While there I became acquainted with two or three Americans and one Sydney man, whose sole business was to steal horses and mules, which I would sell for them. I think I knew of every robbery committed in Sacramento while I was there. The names of the horse-thieves were Dab, James Peate, and Johnny Griffiths. We heard that there was a brig in the river with about $20,000 on board; so Griffiths, Edwards, Brown, and I went on board and got all the money, which was only about $1200. The next day we agreed to come to San Francisco. A man came down with us called Jimmy-from-Town. He had robbed a Spaniard on the river of thirty ounces of gold, which he divided among four of us. We came together from Panamá on board the *Tennessee*, and I stowed him away on the passage. The same night we went aboard the *J. Casket*, Edwards, Brown, Smith, and I, and robbed the vessel. We had some hard fighting to do; the captain was desperate, and we fought him until we left him almost dead. During the fight his wife came out of the cabin with a sword in her hand, which I took away from her. I acted as captain. We were all masked. We searched the cabin, and obtained from the captain's wife all the money on board; also, at my request, she gave me an Allen six-shooter. The woman begged I would not take her husband's life. I said I did not want to do it if he would be quiet. I was about to take a splendid gold chronometer watch. She hoped I would not take it as her mother had given it to her. I said on those conditions I would not take the watch. The others kicked up a row for not taking it, but I told them that I was master; that they had made me so and I would do as I liked. Before leaving the vessel I tied the captain's hands behind him, shut him up in the cabin, and told his wife not to speak for two hours, as I should not leave the ship. We found that instead of getting $15,000 or $16,000 we had got only $170. When the captain's wife gave me the money she said that they had sent it nearly all home on a previous packet, or we should have got it all without doubt. The captain advertised a loss of $900. We stopped in San Francisco for five or six days. I spent one night in Grayson and Guild's store, where we attempted to get the safe containing the money, but found it too heavy to move. Then I went to Sacramento alone, and stopped at Moore's house, on L street. Did nothing but play cards, and I won a great deal of money. I sold horses and mules, as they were brought in by horse-thieves, under the name of Campbell. Moore died, and I bought his wife out for $150. All the goods stolen in Sacramento were brought to this house. John Griffiths, John Jones, Bill Nelson, and Old Jack were my boarders. A few days afterward Griffiths was arrested for picking a man's pocket of $900 in an auction store. On Monday he was committed to the prison brig with his bail placed at $1500. They were kicking up a row in Sacramento and wouldn't go straw bail, so to raise the money I took a team, loaded it from my house with stolen goods, and started for Mormon Island, where I sold everything. Then I returned to Sacramento, and obtained an order from the sheriff to go on board the brig and see Griffiths. I found that on the night before, in trying to

escape with irons on, he had been drowned. While I was away my house was robbed of everything; I did not think it worth while to open another house, and went to live in a small house near the burying-ground. A few days afterward I was arrested for house-breaking. I employed Mr Pixley, who promised to get me out of the scrape for fifty dollars. I told him I was guilty. Old Jack swore false, and I gave him twenty dollars. About a week or ten days after, was arrested again for breaking into a house in a lumber yard. I was very nearly shot there; a bullet went through my hat at all events. I got taken and committed aboard the brig for trial. A night or two before, Mat Hopword, from Sydney, or Big Brummy, as we call him, robbed a house with me, where we got between eight hundred and nine hundred dollars' worth of property. Employed Mr Pixley again, and paid him fifty dollars, and gave him fifty more for getting off Big Brummy, who had robbed a woman. Two days after I had been on board the prison brig a constable came down from Auburn and identified me as the murderer of Sheriff Moore of Auburn. Two or three hours afterward two more constables came on board, one from Foster Bar and one from Marysville, and identified me as having murdered Charles Moore. One had a warrant; they went to Judge Sackett, who gave them an order to bring me ashore. I was taken to the judge's office; Mr Pixley appeared for me, and would not allow the judge to examine me. I was then sent on board the brig again. The next morning the sheriff came for me, and Mr Pixley told him that his warrant was not legal; that he could not take me without another warrant from Marysville; so the sheriff went after it. I then gave Mr Pixley my bag of gold dust to weigh out six hundred dollars, and an order for one hundred and thirty dollars, which he told me he had got and would pay me next day. The orders I gave Pixley were in the name of James Campbell. That night I made my escape from the brig. I walked the next day to Dry Creek, half-way to Stockton; when I reached Stockton I disguised myself and came to San Francisco on a steamer; this was about the middle of December. I stopped at Edwards' house in Sydney Valley.

"I never went out of the house during the day. At night I went to Port Philip House kept by McCormick and Whittaker. At this time Jansen lived next door to Whittaker, We heard that there was a safe in a butcher's shop in Broadway with eight or nine thousand dollars in it, so Whittaker and I, with Edwards and George Adams, took the window out, moved the safe into the street, but could not get it any further. Our next attempt was Minturn's; Belcher Kay said there was a great deal of money there. In this mess there was a large number of us. Edwards, Whittaker, George Adams, Edward McCormick, Belcher Kay, Bob McKensie, and I took a boat, fall and tackle, made shears, put a feather-bed in the boat, augers and saws, and all went pretty well armed. Three or four of us got inside the building and moved the safe a little; made a few auger holes in the floor, intending to cut the floor away; some one came to the door, a false alarm, and we had to run. McKensie spoiled it all by not knowing his instructions; he gave wrong signals, and we jumped into the water and ran away. With such a big haul we should not have stirred for one man or two. Belcher Kay watched outside. The next thing was a jeweler's shop; Belcher Kay had examined it;

he said there was twenty or thirty thousand dollars in diamonds there. Edwards and I went at night and looked at the place; gave my opinion that we could not do it; too much risk, as there were four or five men in the shop below, and so we gave it up as a bad job. The next thing Belcher Kay got for us was Macondray's store; he had been watching it for a month, and he told us that there were three safes and a vault with lots of money; as much as we could take away in a boat. We came up in the night to do it, but some of the men backed out; and considering there were eleven men in the building we all gave it up.

"The next night Whitaker informed us of Jansen's place. He said that when Jansen moved he had a bag which he supposed contained ten or fifteen thousand dollars; we agreed to go and get it. Jim Briggs and J. M. Morgan, who had just come from Monterey, and Whittaker, Edward McCormick, Billy Kewes, Belcher Kay, and I, who had been together for ten days, were in this job. McKensie had had a falling out with Morgan and Briggs, and had to leave. Morgan went into Jansen's store first; the rest stopped in the road. Whitaker and I stood at the window during this time. I thought he was too long and could get no money, so I went in to help him; I got half-way up the shop, behind the counter; I heard Jansen ask Morgan what he wanted there; Morgan said he wanted to look at some blankets. Jansen turned around and saw me behind the counter, and I also told him I wanted some blankets. He stepped about two yards to show me the blankets, when I hit him on the head with a slung-shot and knocked him down. I then left Morgan to look after him while I searched for the money. I only hit him once. I opened a desk and took out a shot-bag containing money. Both Morgan and I had cloaks thrown about us as a disguise. I carried the money home to Sydney Valley. There was one thousand five hundred and sixty-eight dollars in gold coin. We divided it among eight, making a hundred and ninety-six dollars apiece. We went down town and spent a few hours at Mrs Hogan's, on Sansome street; her house was a crib for stolen property; she wears my picture, and knows all about our motions, but Mr Hogan was innocent. The next day there was quite a fuss about town made over Jansen's assault and robbery. We did not commit any more robberies while the trial of the men arrested for striking Jansen was going on, as we did not wish the men hung, knowing that they were innocent. We would have shot fifty men rather than have had them hung. We agreed that if those men were hung, which we expected they would be, we would fire the town on Sunday night in several places.

"A few nights after we agreed to rob a bank kept by Beebee, Ludlow, and Co., on Montgomery street. In this we were to be assisted by Bob McIntyre and Andy McCarty. They told us that whenever we were ready they would take the watch off their beat. These police-officers used to know all we were about those days. We tried two nights; opened the outside door by false keys. Watched it two days, and concluded there was not money enough to pay for attempting the robbery, as we observed the porter come each morning from Argenti's with bags of money deposited the previous night.

"The next night we went to Young's Bank, next to El Dorado, in Washington street. Morris Morgan helped build the money vault, and gave us the

information. Went down El Dorado steps, opened the door with false keys; entered and found two beds; discovered too many people sleeping about there, considered it too dangerous, and gave it up. Belcher Kay was an accomplice; there were eight in the gang; Kay generally was outside watching. We have had an understanding with police-officers McIntyre and McCarty for a long time; they were concerned with us in the robbery of Young's Bank.

"The next night we stole a small safe out of Emerson and Dunbar's auction store; this was Sunday night; there was but twenty-four dollars in this safe. Adams stepped out at the time of Minturn's robbery.

"The following night we stole a safe from Gladwin and Whitmore; took it up the sand-hills, but were discovered before we had broken it open. Here we lost all our tools, which were worth five hundred dollars to us. Then I went to Mrs Hogan's house. Bill Hewes went home that night. Not liking to see the men go to the watch-house, I wanted the rest to come and free them by force; but they refused, thinking that by employing Mr Parburt and other lawyers they would be cleared. The next day Morgan was acquitted and Briggs committed to jail.

"The next day I went to Gold Bluff in the schooner *B. F. Allen;* I was twenty-seven days on the passage to Trinidad Bay. I there saw Bob McKensie, Dab, the horse-thief, and Jem Peet; they came from Oregon. They said that five horse-thieves had taken about sixty horses from Sacramento City to Oregon, and there sold them. I found Trinidad to be a bad place for me. I played cards with Dab, and won all his money, about three hundred dollars. I then came back in the *B. F. Allen*, and paid the passage of Dab and Peet also to San Francisco. We arrived in San Francisco on Sunday, when Dab threatened to inform on me if I didn't give him money; so I gave him fifty dollars.

"I went to James Kitchen's house, and sent him on board the schooner for my bed and blankets. The same day Dab and a policeman stopped me on the street; the policeman wanted me to go to the recorder's with him. I drew my pistol to shoot him, and he shoved off. There were many people around, and I gave him one hundred dollars to quiet him. I then went to Kitchen's to stop that night. I went to see Mrs Hogan, who told me that there was a warrant out for Whitaker and Long Charley, for robbing a man in her house of fifteen thousand dollars; she said she had secreted Whittaker at the Mission, and advised me to leave the town, as the police were searching her house.

"The next morning I hired a horse at a stable and rode to Monterey. At this time I had just taken the name of Carlisle, having previously been known as Campbell. I went to Monterey on purpose to attend the trial of the men arrested for robbing the Monterey custom-house. I went to the watch-house and saw the prisoners. The second night my horse was stolen from me. Dick Osman was first put on trial. Parburt went down from San Francisco to defend him, and I appeared as a witness in his favor. Whittaker was also at Monterey; Briggs was then in custody; Kitchen arrived at Monterey in the steamer. We all knew the parties were guilty. Although they took thirteen thousand dollars down from San Francisco, all that was robbed was eight thousand, though Randall said that he had lost thirty thousand. Parburt, McDonald, and Judge Merritt were counsel for prisoners, and Colonel Weller,

Bolts, and Wallace for prosecution. There was a great deal of false swearing and bribery. All the money was taken from the prisoners; the court charges, amounting to one thousand dollars, were first deducted, and the balance, twelve thousand dollars, was equally divided between the prisoners and prosecuting counsel. The prisoners then paid their own lawyers. Randall received one half and the prisoners the other half of the twelve thousand dollars. Ryan, Morgan, and Tom Quick were then in jail, but Osman was tried and consented to the division. The sheriff of Monterey received seven hundred dollars and a gold watch for packing the jury and for other services. Morrisman, a juryman, received one hundred dollars from the prisoners, which was paid after the trial. Dennis McCarthy, the constable, received one hundred dollars from the prisoners for false swearing. He first swore for the prosecution, and then swore back in favor of the prisoners. Jim Carson, a juryman, held out for guilty; he was bribed by the prosecution. The judge knew nothing about all this. Parburt told me to let the prisoners out of jail; I broke the door down and they were free.

"Then I started on foot from Monterey for the southern mines. When I reached San José I stole a horse, saddle, and bridle, but was captured near San Joaquin. I got in a row with eleven Mexicans who took my gun and said that I had stolen their horse; they took me back to Livermore Pass. I gave them my watch and chain to release me, and started on foot for Sonora. From there I went to Sullivan's and worked about a week, but did not like mining. Then went to Mariposa where I worked for five weeks; there I met two Americans who knew me; I did not think myself safe and started on foot for San Francisco.

"I arrived here on Tuesday night; I saw Kitchen in the El Dorado; went to his house where he used to live; all my things were left at Kitchen's, and are still there. Wednesday morning I arose and went to the Mission to see an acquaintance who lives at the bakery; this acquaintance wished me to rob a Spaniard's house at the Mission. I went into the Mansion House, saw the safe, and said I would see him again about it. I took the hills on the way back from the Mission to avoid being seen, and was arrested on the sand-hills doing nothing; I was on the way to North Beach.

"In coming from San José to San Francisco last January or February I came in the steamer *New Star*, with one Smith, who was afterward shot in Sacramento while robbing a house. We went from San Francisco to San José on purpose to rob the churches of the silver and gold images. We were told that there was a gold image weighing ten pounds, but we could not find it. We got stuck on a mud-flat on the passage. In the morning we were called into the cabin and told that a passenger had been robbed of one thousand dollars in gold dust. They took my gold dust, amounting to about six hundred dollars, and that of another passenger; but I did not commit the robbery nor know anything about it. Before leaving the *New Star* I threatened the captain that I would report him if he did not give me back my money; he was afraid I might make him trouble and gave it up.

"On arrival here I advised robbing the *New Star*. I met Teddy McCormick and John Edwards, and went down to the steamboat. I went on board, opened the window, and robbed the desk of about two hundred and fifty

dollars. I have worn a scrape and have ridden horseback in San Francisco. Jimmy-from-Town robbed Dow's safe and blew it up with powder. Have heard hundreds remark that the day would soon come when this country would be taken by the Sydney people."

In addition to this story of guilt is the testimony of Joseph Hetherington, who took charge of Mrs Hogan's house at her husband's request while he was at the mines. Whitaker boarded there during Mr Hogan's absence. Whitaker gave him this account of the murder of Moore, the sheriff: He said that Stuart, with two Americans, was travelling from Nicolaus to Marysville; they had but little money, and they concluded that they might as well be dead as to be without money; so they agreed to rob every man they met until they secured twenty thousand dollars apiece for themselves. Sheriff Moore happened to be the first man who crossed their path, and Stuart at once shot him. It was for this murder that Burdue was convicted before Stuart was arrested.

Stuart's confession raised quite a commotion among the fraternity. While the professionals, whose sombre deeds were lighted by the people and the press, scattered, respectable malefactors as a matter of course loudly proclaimed their innocence. I do not doubt that Stuart exaggerated where he entertained enmity, or that he lied whenever it suited him. He was bad enough to do anything, and he was strong enough to do much. Yet in false charges there are usually some facts. A lie seldom rests on no foundation; or if it does, the victim of it is indeed a sufferer, for such is the construction of men's minds that he can never wholly escape the effects of it. Evil is never spoken of the innocent whom the slanderer does not know. Vice, like fire, is a dangerous plaything. When the clouds drop pitch, you may look for the white-robed at home.

Scarcely had the clock told nine on the morning of July 11, 1851, when the Monumental bell struck

for the assembling of the general committee at their rooms on Battery street, and instantly the streets were filled with citizens hurrying thither. So much time was occupied by the Committee in their grave deliberations that the crowd, congregated in knots about the building, became impatient. Those who knew nothing of the proceedings within began to think it but an ordinary conference, and about noon dropped away to attend to their respective affairs.

The minutes of the general meeting, Selim Woodworth in the chair, are brief and to the point. On motion the evidence in the case of Stuart was read. Questions were then put, and it was determined that the prisoner was guilty of crimes which rendered him liable to the punishment of death; that he should be hanged; that a clergyman be sent for; that the execution take place at two o'clock; that the executive committee should make the necessary arrangements; that no person be allowed to leave the room; that the prisoner receive his sentence. Half an hour after, the sentence of death was pronounced upon the prisoner, who during the final meeting, with imperturbable coolness, sat manacled in an adjoining room. Once or twice during the awful three hours thus employed he placed his fettered hands behind his head, yawned, and exclaimed, "This is damned tiresome; give me a chew of tobacco!" In this request he was indulged. Being brought into the council-room to receive his sentence, he displayed the same apparent nonchalance. Two hours of grace were allowed him in which to prepare for eternity. Stuart received the clergyman, Mines, with great respect; though at first sullen he yielded to the influence of the hour, and at last acknowledged the justice of his fate, declaring that he could die without resentment toward any one. At the expiration of two hours the prisoner was brought out, bound. He was a man five feet nine inches in height, well proportioned, about thirty-one years of age; his hair was brown; he wore a mustache and

whiskers; his forehead was broad and his face had an intellectual cast; he had an aquiline nose, compressed mouth, and slightly projecting chin. At the time of his execution he was neatly dressed in a dark jacket, white shirt, brown pants, and patent-leather boots. During the time while the doomed man was closeted with the clergyman his four hundred judges sat in the committee room like statues, solemn and silent. Scarcely a word was spoken, and the gravity of unpleasing but inexorable necessity was depicted on every countenance. One of their number went out and addressed the people before the door, telling them that guilt of the deepest dye had been proven without a doubt; that this proof was backed by the prisoner's confession, and that the sentence of immediate death had been pronounced. The speaker then asked if the proceedings met their approval. Affirmation was promptly spoken, with but three dissenting voices.

About half-past two the Committee emerged from their rooms with the prisoner, bound and supported by two members. Arm-in-arm, eight abreast, with weapons ready, they marched in platoons, with slow and measured tread, along Battery street to Market-street wharf, where stood a derrick ready for their purpose. When the front of the column reached the wharf it opened, parted to each side, and the two hundred body-guard passed between the two lines, which immediately closed in the rear and locked arms, forming an impenetrable barrier between those performing the ceremony and the people, who were thus prevented from crowding the wharf. The bravado of the man now left him. Many times he had regarded the approach of death, but never had the grim monster stared him in the face as now. For a moment, as he looked at the gallows prepared for him, and as he felt the solemn hush pervading the assemblage, his strong frame shook like a leaf; but immediately recovering, he thenceforth acquitted himself manfully. At his own request he was not blindfolded; reiter-

ating a few words of penitence, and acknowledging the justice of his sentence, he closed his eyes. One end of the rope was quickly adjusted round his neck, the other thrown over the derrick and seized by twenty hands, which quickly jerked the criminal in air, where he was suspended for half an hour, until long after life was extinct. Throughout the entire proceeding the most perfect order prevailed, no resistance being offered by any one. The solemn stillness of the people, as they stood with uncovered heads, attested the grave importance attached to the execution, indicating no feeling of revenge, but the consummation of simple justice. In the harbor flags on the vessels had been hoisted and cannon fired.

As I have before remarked, there was no military organization in the Committee of 1851, as there was in that of 1856, but a police system only. At the time of Stuart's execution the general committee resolved itself into an inpromptu military association, consisting of companies or squads under their respective captains, in all about three hundred and eighty men. Thomas J. L. Smiley, a tall, straight, fine-looking man, no less able in counsel than efficient in action, commanded one company, with his business partner, John Middleton, acting as lieutenant. While Stuart was hanging, and before life was wholly extinct, Gallagher, the coroner, came in hot haste, elbowing his way through the crowd until, reaching Smiley's locked line, he paused, and throwing into attitude and speech the half of Ireland's dignity, he cried:

"I demand permission to pass!"

"Who are you?" asked Middleton.

"You know well enough who I am," said the corpse-tender; "I'm the coroner."

"The devil you are!" replied Middleton. "Well, Mr Coroner, you don't pass this line until that fellow is a fit subject for your administration."

As we have seen, all these proceedings were characterized by sobriety and solemnity. Yet peculiar to

the people and to the time was that spirit of manumission from ancient superstitions, so inseparable from their acts, that while engaged in the most serious affairs they could not behave otherwise than in their natural manner.

I have said that James Stuart was a great scoundrel—a mean scoundrel. Yet the more I investigate his character the more I am astonished at his coolness, courage, and ability. Had the stream of his life been directed into honest channels he would have been no less prominent for good than he was now for evil. If in the eighteen months' work, the account of which he recited with such vivid exactness, the same energy and talent had been displayed in some honest direction, as is always true in the economy of crime, the results would have been no less beneficial to himself and to society than his actual course was detrimental. When one lays aside all hope of life, and walks the street as already a dead man, there is apt to be very little acted for effect; or if so, then doing for effect is surely a dominant quality of such a one. Now when Stuart knew his time had come, villain as he was, I can but admire his conduct; for prominent in all his bearing were displayed in a remarkable degree admirable qualities which many an honest and good man lacks. He was not defiant, like Jenkins, but modest. Marching to execution with head erect, firm step, and graceful carriage, he looked less the villain then than at any time before. Nor was his coolness indicative of audacity or indifference. It was simply the display of a natural philosophic strength of mind, exercised unconsciously, or nearly so. Yet he was an audacious villain, and every inch a villain.

CHAPTER XX.

A BUSY MONTH.

The next in place and punishment were they
Who prodigally threw their souls away.
Dryden.

THE work went bravely on. Throughout the land it was deemed the proper thing to do. Men knew that nothing would cure the evil but hanging. The wicked ones were so active, so cunning; like Antæos, as long as their feet touched firm earth no Hercules could crush them. July, 1851, saw town and country all astir. Not of that outward noisy form, visible to the eye of the uninitiated, was the traffic of the tribunal; but whosoever with spiritual vision might penetrate the calm surface, or, better still, in bodily form step behind the already blood-begrimed curtain, would soon hear the clatter of the morality-mill, and witness the various processes of cleansing there applied to soiled souls.

This was the busiest month in the annals of the first Committee. The mass of accumulated material, most of it of a secondary character lacking special interest to the general reader, is overwhelming. What a revelation was that of James Stuart! and what a world of work it made! Meetings were held daily, sometimes twice a day, and correspondence was opened with rogue-exterminators and country committees from British Columbia to Mexico.

Hundreds of descriptions of suspected persons were sent from one committee to another—instance the

following, given by the Marysville Committee to the San Francisco Committee:

"Charles A. Pitcher of Belfast, Maine, was whipped at Tolle's old dry diggings, above Marysville, about the 25th of June, for stealing six hundred dollars out of a miner's tent. Previous to the theft he had passed under the name of Silas Pacard. He is over six feet in height, broad-shouldered and full flesh, but not over fleshy. Will weigh a hundred and eighty-five to one hundred and ninety pounds; dark hair, cut short, and rather brown complexion; black eyes, and heavy black eye-brows. He walks with a long, stately step. He is about thirty years of age. Wore about the 1st of July a camlet coat of black, skirts rounded like a quaker's, black pants, and a low drab brush hat, with black band. He had a partner named Miller—a very respectable man—in the grocery business on Front street, Sacramento. His partner quit business on suspicion of Pitcher's dishonesty. He has a brother-in-law named Miller, of the firm of Pierce and Miller, in Sacramento City, J street, between Seventh and Eighth, who is a very honorable and respectable merchant."

Criminals were caught and witnesses examined by the score, involving the taking and writing of great masses of evidence, which might or might not prove relevant. Then there was the sea to scour as well as the land; on the arrival of every vessel from Australia the passengers and crew were overhauled for disreputable characters; also passage to be secured, and paid, for the exiled. There was the hanging of one and the getting ready of others to be hanged. There were the new quarters to make tenantable, rooms and cells to arrange, and the accommodations of constantly increasing numbers and requirements to be provided for.

The organization had likewise to be remodelled. Hastily arising from immediate necessity, adapted to simple duties rather than to complex and permanent affairs, there was much to be considered and changed. Besides the outlaws there were the lawyers, and law officers, and prisons to look after. Suits were brought which must be defended, and writs of *habeas corpus* there were to be dodged.

In the archives of the Committee before me are abstracts of the character of multitudes of those

then arriving here, of which the following are specimens:

James Ogle, Irishman; left home in 1840 in the emigrant ship *Champion* for Sydney. Occupation a laborer; kept a tavern in Sydney; thinks there are no convicts on board this ship; has a wife and child on board; knows a Mr Eggleston in this city.

Thomas D. Snodgrass, a Scotchman; left Liverpool as passenger in ship *George Canning* in 1828; kept a sheep farm in New South Wales; has a cousin here named Benjamin Sullivan.

William Luch, an American, born in Connecticut; on ship's articles; has been on board about five months; went to Sydney as steward in ship *Christoval*, a whaler, from Nantucket; ran away from ship; never knew any of the passengers until he came on board.

David Rose, Englishman; left Liverpool for Auckland in convict ship carrying prisoners; remained in New Zealand two years; came to California in ship *Johnson*, arriving in March, 1850, with two hundred passengers.

Helen Casey, Irish, single woman; arrived in Sydney in 1820 in emigrant ship *Premier;* was waitress in an asylum at Sydney where she left her father; has a sister on board.

William Butt was taken before the Committee and testified: "I was born in Southampton; left from the Isle of Wight by the convict ship *Lord Eldon*, which took two hundred and forty-five convicts from Portsmouth; I engaged with Captain McCarthy as servant; a person named Bolton who resides here knows me; I have never been a convict." He was discharged from custody.

Mary Ann Banks, an Englishwoman; left England eleven years since in ship *Sir Edward Paget* for Sydney. No certificate.

Lists descriptive of suspected persons were carried in the pockets of the vigilant police, of which I give two specimens:

Russell, *alias* 'Moe the Jew,' aged forty; height five feet seven; black hair, swarthy complexion, dark beard, eyes dark-brown; mouth broad, and upper lip straight; scar on right side of the chin; nose straight, eyes sunken; not like a Jew; very smooth and plausible in his address; gives to his eyes a peculiar expression; married, one boy two years old; round-shouldered, but strongly built; chin round. Can be found in a house on Sansome street, near Pacific.

Ben Sellers, aged forty-one; five feet eleven or six feet; high cheek-bones, freckled, pitted by small-pox; sunken gray eyes, brown hair, no whiskers; strong and squarely built; active man; mouth very wide; married, no children.

On board the American ship *Adirondack*, arriving from Hobart Town in July, 1851, with two hundred and fifty passengers, one hundred of whom were women, were found two who were not permitted to land.

Herewith I give a copy of a bill of lading in the shipment of an exile:

"JULY 17, 1851.

"*Know all Men by these Presents*, That I, P. Jas. O. C. White, captain of the brig *Camel*, bound for the port of Sydney, New South Wales, am held and firmly bound unto the commonwealth of Upper California, United States of America, in the sum of two thousand dollars, upon this condition: That I will deliver the body of one Alexander Wright, a convict, who has this day been put on board of my brig by the citizens of San Francisco, and for whom the Vigilance Committee have paid me the sum of one hundred dollars for the passage of said Alexander Wright to the aforesaid port of Sydney, dangers of the sea only excepted; and that I will present him to the authorities there, and not return him again to California, nor land him during this voyage at any intermediate port.

"Witness my hand, this 17th day of July, 1851.

"P. J. O. C. WHITE.

"In presence of A. Oaksmithe and Robt. S. Lammot."

Here is the "Report of 537, V. C.":

"A man named McCurdy, who came passenger in the British bark *Princess Royal*, from London, has now in the United States Appraiser's Office 800 pounds of apparatus and false dies for counterfeiting the different silver and gold coins of the United States. This man is accompanied by a man named

Walker. The dies, etc., will be shown to any of the Committee who may be pleased to call upon the officers of customs at the appraiser's store, California street; and they will also give a description of Mr McCurdy."

Mr Payran sends in the following communication the 7th of July:

"From information received from a reliable source I would present Yerba Buena Island as being infested with a gang of thieves, and perhaps worse. It appears that the cutter *Polk* lay to the leeward of the island yesterday, and while there distinctly saw several men leave the beach for an instant and return again, armed apparently with rifles, seemingly, to all on board the *Polk*, to prevent the landing of any persons from her. They also saw them packing boxes and bales in great quantity. The party on board the *Polk* imagined that the gang on shore took them for the Vigilance Committee. One gentleman informed me that he has no doubt of the fact that the island is the receptacle of a large amount of stolen property, as well as the habitation of several felons. I therefore respectfully and earnestly call the attention of the executive committee to the subject, and propose the following motion: That the officer in command of the *Polk* on Sunday, the 6th, be respectfully requested to come before our body and relate particulars touching the matter, as well as inquire of him as to the gentlemen on the *Polk* who witnessed the scene."

The following, from the proceedings of a July meeting, sufficiently demonstrates the sentiment of the association at this time:

"WHEREAS, Seeming quiet, peace, and safety have attended our career of vigilance up to this period, and the dreaded evils to be apprehended from sudden outbreaks of the people have fallen short of the expectation of those who were opposed to such measures; and whereas, The Committee of Vigilance of this city has been the foster-father of all such institutions throughout the state, whereby safety has been guaranteed to our brethren, and hundreds of the evil-minded who were in our midst have fled, whereby much danger will be avoided, it now becomes us to so arrange the basis of our association that its labors may be lessened and our usefulness continued, and the future present a bright scene compared with the past. Therefore we would suggest in its present form and in the following order: That the executive committee continue to discharge their duties by meeting at a room to be selected, and there receive all reports that may be offered; and should any case occur of sufficient importance to call the general committee together, to then call them by notice to be given through the public papers or tap of the bell; and in conjunction with other associations throughout the state, to hold all public matters under consideration, and report thereon; to hold the acts of all our representatives subject to our examination, so that thereby some assurance may be had of their faithfully discharging their duties. We would also suggest the propriety of receiving all good citizens as members, who shall at their initiation

pay five dollars, with such monthly stipend as may be fixed upon; that there shall be a stated meeting of the general committee, not oftener than once a month, except in cases of necessity; that this association shall not lose its identity, but exist in all its properties, liable to be called into action whenever necessity may require; therefore,

"*Resolved*, That the Committee of Vigilance shall still continue under its present organization; that the present order of business shall continue, and no meeting shall be called of the general committee except on urgent business to be determined by the executive. That the said executive or a quorum of five meet every evening, at the place to be designated, and there receive reports and attend to such matters as may come before them. That the services of a sergeant-at-arms under salary be dispensed with; that the duty be placed on one of the Committee, who may retain the man George, or some other person in our employ, to take care of the room and attend the door. That the proceedings of the present Committee shall be engrossed, and taken charge of by them for such future action as may be taken. That the qualification committee shall be merged in the executive committee, and that no new member shall be admitted except through and by the executive committee under such rules and regulations as they may hereafter adopt. That there shall be a finance committee, whose business it shall be to take or receive all moneys, and make disbursements on orders from the executive, signed by a quorum. Also, that the executive committee shall have power to dispose of all surplus property, the proceeds of the same to be paid over to the treasury, and to fill any vacancies that may occur in their midst from the general committee."

On another occasion it was resolved,

"That the deliberations of this body should be marked with dignity and solemnity, commensurate with the nature of the subject before them. That all loud demonstrations of approval or disapproval are undignified and incompatible with the true spirit of deliberation, and are hereby declared out of order in this Committee. That any person offering an indecorous remark to a speaker engaging the attention of this Committee shall be forthwith expelled from the room."

It was also resolved,

"That when a prisoner was delivered over to the charge of the chief of police of this association such prisoner should be considered the property of this Committee, and should not be released unless by the action of the executive committee or by a vote of the general body."

The black sheep of the fold were soon detected, summarily dismissed, and narrowly watched. The following, from the minutes of July 5th, shows the shape in which complaints against members sometimes came up:

"Received communication of William C. Graham, No. 152, being a complaint against W. F. McLean, No. 539, he not being considered a fit member

of the Vigilance Committee. No. 152 states that this morning, about two o'clock, found No. 539 standing at the door conversing with two policemen, and heard him say that it was a damned infernal shame, the action of the Vigilance Committee in the case of Goff; it was a damned imposition, and one he would not submit to; and further stated that McLean said the day they go to put their decision into execution that he would have the boys about and release him."

Among the other excuses of delinquent justice, and by no means one of the least reasonable, was that of inadequate prison facilities.

Watkins, a genteel young man, sentenced by the court of sessions to ten years' imprisonment for burglary, openly boasted before Sheriff Hays that no prison in California could hold him. His friend and confederate, Brier, also thought his own confinement would not be long or severe. These dashing professionals took a philosophic view of chance, skill, and result; if foiled in wise attempt, or if captured when nothing more was undertaken than a fair business risk, they submitted to imprisonment with characteristic good humor. Hanging more seriously interrupted their occupation, and hence should be avoided.

In the earlier epoch of city government a large appropriation had been made with which to build a jail; but, as was usual in such cases, it had all been filched by official fingerings before it could accomplish its purpose. A committee was appointed to investigate these frauds, but they had been sufficiently well managed to escape such detection as should fasten the guilt in any responsible quarter.

The necessity of securing felons when caught was daily felt more and more. In May and June the escape of prisoners was so frequent that the sheriff was obliged to bring all his lodgers at night into the main room of the building, and station policemen at different points to watch them. Under this arrangement, in many instances, a little money, or a bottle or two of brandy, was the price of liberty.

On the 30th of June a large number of the Committee, by invitation of the sheriff, visited the county

jail, then in course of erection and partially occupied. The Committee expressed themselves as pleased with the general aspect of the place, and admitted the urgent necessity of the speedy completion of the building. But the city, already bled to dryness, could not do more. Money there was none, and promises the builders had no faith in. Fifteen thousand dollars were needed at once, and if this was raised the citizens would have to do it. The Committee at this time numbered five hundred active members; the requisite amount divided among them would leave to each thirty dollars to pay. Or to achieve a quick practical result, the fifty members of the executive, each assuming three hundred dollars, could settle the matter in an instant.

At the meeting of the 5th of July it was resolved,

"That as the amount wanted by the sheriff to complete the gaol could be made up by each of our members obtaining ten subscribers at three dollars each, a committee of the whole take up subscriptions for carrying out this object."

Thus the much needed and long delayed work was quickly, easily, and cheaply done. If all the affairs of government to-day were taken from the great unwashed, the illiterate, the dishonest, the irresponsible, from selfish scheming professionals, and placed in the hands of the few most interested in the true welfare of the country, the matter of our governing, federal, state, and municipal, would not cost one fifth its present assessing.

Forms printed in the following words were circulated for subscriptions:

"PROPOSED PLAN FOR COMPLETING THE COUNTY JAIL.

"We, the subscribers, citizens of San Francisco, hereby agree to pay to the Committee of Vigilance, of said city, the sum of three dollars each, to be appropriated by said Committee, and disbursed under their direct supervision, for the purpose of completing the county jail."

The money was paid over as the work progressed, the last of it not being required until September, as the accompanying order shows:

E. Dillsent Esq
Treasurer V. C.

Pleas pay to the order of John Hays Esq Sheriff of the County of San Francisco the sum of Forty four hundred & Eighty four dollars the same being the amount Collected and paid in on "Jail Fund"

San Francisco Sept 18th 1851

$4484 100

Jas. C. J. Webb } Finance
Geo. Ward } Committee
B. D. Hedley } of
} M. C.

Early in July was brought the first of those annoying lawsuits against members of the Vigilance Committee of which there were so many during the year succeeding the great work of 1856. This suit was entitled Metcalf *versus* Argenti, Atkinson *et al.*, and was brought in the superior court of San Francisco, Justice Smith presiding. It appears that one Peter Metcalf, a carman, agreed for the sum of fifty dollars to take charge of four loads of furniture and wearing apparel during the great fire of the 22d of June. When called on to return the property he produced three loads, excusing himself from not returning the fourth on the ground of confusion and loss during the exciting scene. Suspicion was aroused no less by the man's contradictory statements than by the fact that out among the sand-hills was found a richly furnished house, containing some twelve or fifteen trunks filled with new and valuable wearing apparel, fire-arms, and other property, unquestionably stolen during the fire.

The Committee of Vigilance, on being informed of the facts, set themselves at work to find the guilty persons, and in accordance with their custom they took the path that seemed before them straightest to the mark, and that without consulting custom or asking permission of the law. Suspecting Metcalf, they entered and searched his house. For this the carman demanded before the court twenty thousand dollars.

Owing to certain delays the trial was not begun until the 16th of August, and it ended the 23d. At a meeting of the Committee, held the 5th of July, a resolution was passed as follows:

"That a committee of three be appointed to wait on Mr Metcalf, and on Messrs Lockwood, Tilford, and Randolph, acting as counsel for the prosecution in the case of Metcalf *versus* Argenti, Atkinson, and others; and they are hereby directed to request those gentlemen to withdraw the suit and all further proceedings in the matter."

At the same time was adopted the following pre-

amble and resolution, which appeared in the public prints:

"It having become necessary to the peace and quiet of this community that all criminals and abettors in crime should be driven from among us, no good citizen, having the welfare of San Francisco at heart, will deny the Committee of Vigilance such information as will enable them to carry out the above object. Nor will they interfere with said Committee when they deem it best to search any premises for suspicious characters or stolen property; therefore,

"*Resolved*, That we, the Vigilance Committee, do claim to ourselves the right to enter any person's or persons' premises where we have good reason to believe that we shall find evidence to substantiate and carry out the object of this body; and further, deeming ourselves engaged in a good and just cause, we intend to maintain it.

"By order of THE COMMITTEE OF VIGILANCE.

"*San Francisco, July 5, 1851.* No. 67, *Secretary.*"

In every large and promiscuous body of citizens there are some whose judgments are ill-advised and whose actions are too impetuous. The publication of this resolution was certainly injudicious on the part of the Committee. Its members would have known, had they carefully considered the matter, that no good could come of it, and much evil might be the result. The suit was brought by a poor carman against members of a powerful association, through a prominent law firm, whose fee, almost of a certainty, was contingent. Under such circumstances any overtures on the part of the association could not but be damaging to the defendant. As a matter of course the client would be governed by his counsel, who if they were gentlemen would give gentlemanly answers, or if blackguards they would reply accordingly.

In this instance the reply of the law firm to the appeal of the Committee for a dismissal of the suit illustrates more fully than could any words of mine the character of the men composing it. Says the lawyer Lockwood in the journals of the day: "Sundry fools or knaves, perhaps both, styling themselves the Vigilance Committee, have caused to be transmitted to the firm of Lockwood, Tilford, and Ran-

dolph, the following resolution [given above]. As a member of said firm, my only answer to the aforesaid fools or knaves, in addition to the verbal response to the bearers of the resolution, is, I do defy, deny, spurn, and scorn you."

The formal reply of the firm displayed a spirit but little more decent or truthful:

"SAN FRANCISCO, July 7, A.D. 1851.

"GENTLEMEN:

"We have received with astonishment a communication through your hands, purporting to be an extract from the minutes of the proceedings of a certain association styling itself the Vigilance Committee, in which we are requested to withdraw the suit which we have instituted in behalf of Peter Metcalf *versus* F. Argenti and F. A. Atkinson.

"We forbear to remark upon the folly, the presumption, the ignorance of your own powers and of our character, and the entire disregard of the constitution and laws, and the rights of your fellow-citizens, which that communication betokens.

"You will, for our answer, say to those who sent you, that we need no advice, and will submit to no dictation from the Vigilance Committee, collectively or individually; and that they may rest fully assured that we will prosecute the suit of Metcalf *versus* Argenti and Atkinson, and all other suits of a similar nature in which we may be employed, with the utmost of our ability and to the end of the law.

"We remain, your obedient servants,

"R. A. LOCKWOOD,
"F. TILFORD,
"EDMUND RANDOLPH.

"*To Messrs Sharron, Curtis, Bromley, and Spence*, Committee."

The result of this trial was a failure of the jury to find a verdict. Nine were in favor of acquitting the defendants, and three held out for nominal damages. The case was then taken to San José, where the jury found for the plaintiff in the sum of two hundred dollars.

The speeches of the respective members of this law firm on these two several occasions are models of verbiage. Nothing could injure a cause more effectually than such advocates. Listen: "Men and brethren, awake from your false security! Heed not those hireling and corrupt editors, who persuade you

to surrender to the patriotic and disinterested Vigilance Committee the custody of your character, your property, your liberty, and your lives. Heed not the crocodile lamentations and hyena howlings over petty crimes, of those vampires who at midnight drain the stream of life in your midst, and at mid-day repeat their horrid orgies with triumphant demonstrations. Murder, murder ten-fold more damnable than felonous individual homicide, stalks your streets; not shrouding its hideous aspect in murky darkness; not screening its blood-stained hand in secret lurking places; but with brazen front, in the open glare of day, defying and trampling upon your constitution and laws, and laughing to scorn the solemn mandates of your highest courts of judicature."

Again: "What have those mushroom noblemen, those sweet-scented, starch-collared, counter-jumping aristocracy, who in one short night, by the foul purchase of a goodly quantity of dirty ink and printing materials, became suddenly metamorphosed from cheating haberdashers and close-fisted, soulless money dealers, into an august body of patriotic noblemen; in the name of sense, what good have they accomplished for the community that they thus, with haughty and supercilious air, challenge for themselves the highest niche in the pantheon of our plebeian affections?"

On the subject of domiciliary visits in this connection, the *Herald* of the 17th of July makes the following pertinent remarks:

"Domiciliary visits constituted the bugbear got up as an argument against the Vigilance Committee, and it was represented in proclamations and charges to grand juries as a tremendous stretch of power to search the crib of a confederate of thieves for property stolen from honest citizens, a power exercised in every state in the Union, and in every country in the world where there is a police, and one which should be exercised by the police of this city if they properly discharged their duty. By the exercise of this power we remember that one police-officer recovered after a fire, about six months ago, something like twenty thousand dollars' worth of property secreted in houses on the outskirts of the city. It is a power which no honest man need dread,

and which has never been exercised by the Committee except for the detection of crime or the recovery of stolen property. The stress laid on this thing by Mr Campbell and Mr Brenham is therefore very gratuitous. They should not have permitted themselves to give expression to such platitudes. But the present bugbear is constituted authority. With the voice of a Cassandra and the tears of a Pecksniff one of our contemporaries lugubriously deplores the calamity that must follow a disregard of the sacredness of the judicial character, to wit, a disregard of the sacredness of Parsons. The courts must not be interfered with; they must be permitted to conduct business in the old way, or the consequences to the community will be ruin and disaster. The argument, in brief, is: The Committee must cease from the good work they have in hand, or society will be thrown into chaos, and confusion and anarchy will reign supreme. The old régime of the slung-shot and the bludgeon must be restored in San Francisco in order that officials may live. The city must be periodically fired, houses must be robbed, safes broken open, citizens murdered in the streets, bribery and false swearing must be encouraged in the courts of law, and villainy of every caste and character must be permitted to run riot in San Francisco, else there is to be forsooth an upheaving of society, and a prostration of all the fabrics of civilization and morality. The citizens are called upon to show their respect for courts by sacrificing their lives to the assassin, and what remains to them of their property to the incendiary and burglar. We need not ask the Committee not to suffer themselves to be cajoled into breaking up their organization. They have no intention of so doing, and least of all, in answer to such representations. The citizens do not wish to be again abandoned to the tender mercies of corrupt and treacherous officials, or to have the city again swarming with miscreants of every grade. If the authorities feel hurt that the citizens take the law into their own hands, let them resign. They know they are thoroughly and heartily condemned by the people. They whine about their power being trampled upon. We say again, let them resign. Office in their hands has brought forth no fruits but impunity for crime. An organization of criminals in our midst has been nursed and fostered into growth and vigor by the guilty connivance of men in office. Ample space and verge enough has been afforded the thieves to carry on their extended and systematic schemes of villainy. That is what law has done for us. Do the authorities imagine the people will suffer the city to relapse into this condition?"

CHAPTER XXI.

OPPOSITION TO VIGILANCE ADMINISTRATION.

Patriotism is the last refuge of a scoundrel.

Dr Johnson.

I HOPE I shall not be misunderstood, or accounted loose or lawless in my conceptions of constitutional and statutory government, when I uphold, as I am constrained to do, the people of California acting as Committees of Vigilance in their several emergencies. Forms of government and rules for the regulation of judicial proceedings are essential to civilized society. Christ's millennial reign has not yet begun upon this planet. Until that time, or until the curses of law and government are no longer necessary, I hold them in profound estimation, for they are the savior of life and property. Evils they are, and given us for our sins; yet being necessary evils, should we not rather call them blessings, and not evils at all? So, indeed, we do call them when they are good; when bad, they are the evil offspring of their grandam evil.

I say that I respect law and government, lawyers, law-makers, and governors—when they are respectable. In law and politics there may be, and are, honest men; just as in stocks, railroads, banking, butchering, carpentering, and white-washing, there may be, and are, dishonest operators. All the good men are neither crowded in nor crowded out of any one profession or occupation. As a rule the judiciary of England and America are as able and upright men as under the present economy their

Maker can expect them to be. Among the legal profession of my acquaintance there are those, and many of them, as high-minded and noble men as ever lived; men who would lose a right hand before it should subscribe a lie, or a tongue before it should counsel dishonor. These men, lawyers, judges, governors, for their spotless purity of character, their integrity and ability, I bow before. I honor them for themselves, more than for the office they hold. Gold is but gold, even though it be made into a calf. Furthermore, I can safely say that there never have existed on the earth free governments better adapted to their respective peoples than the governments of England and America. And to these I am ever ready to pay allegiance, as in duty bound. The good man is in duty bound to respect the government under which he lives, because by and for the righteous element of the commonwealth it was established. The virtuous citizen will not overthrow the law, because for his protection, as against vice and criminality, and at his cost, it was and is made and sustained.

It was not law and government that the vigilance men complained of, but the lack of these. In the outskirts of our civilization it has ever been the case that the restraining influences of government are necessarily weaker than in central societies, where forms are more settled, officers more watchful, and the machinery applied more perfect and smooth in its running.

California committees of vigilance were composed, for the most part, of men of good parentage and antecedents, who had not departed from the faith of their fathers. They were men of conscience. Respect for their Maker and for his ministers, sacerdotal, judicial, and legislative, had been early and continually instilled into their minds, made a part of their being, and was their rule and watchword at the time and in the midst of their most determined opposition to crime as much as at any time before or since.

They who opposed independent action in the emergency were such as in religion, politics, and society respected form more than substance. They were image-worshippers whose idolatry had long since ceased to carry them beyond the symbol of their faith. They were of the class to whom in the church purity of belief and holiness of living were of less moment than time-honored tenets, formulated creeds, and church ceremonials. From childhood, by precept and example, their minds had been moulded into set forms. Form was ever uppermost in all their thoughts; they could see only form, handle only form, and conceive only form. Shadow, not substance, was the calibre of their imaginings. From the soul of things their souls were forever barred by the skeletons of dead maxims. They could not think beyond the crust that interposed between their minds and eternal realities.

This, then, was the difference; one contended for the supremacy of form while the other saw only the substance. One would see perish the substance if only the form was maintained; the other would sacrifice the form, if need be, to the reality.

Between these two parties was to be fought the battle for the vindication of the right or principle of the movement. Naturally enough ministers and beneficiaries of the law regarded the interference of laymen with an evil eye. Though powerless themselves with their rusty machinery to protect society, anarchy and annihilation should come rather than the fair form of their ancient idolatry should be desecrated by the polluting touch of the uninitiated, or the ermine of the bench be soiled so long as its purity should be in their keeping.

At this time it was the habit of those who favored the Vigilance Committee to rendezvous informally at the Union Hotel, while the law and order party held their caucuses on the corners of the street in front of some saloon. There they meditated upon the unhappy fate of a people who had not such as they to

rule over them, and speculated upon the probabilities of official profit and loss in these degenerate days.

But so sudden and so strong was the blow struck by this organization of popular will, and so pusillanimous the law and its officers, that at the first there was but little opposition to the action of the Committee. However unpleasant the pill, they took it; howsoever they complained among themselves, few at that time broke out in loud opposition. The governor of the state, the mayor of the city, the sheriff, police, and most of the lawyers and judges, were silent as to the proceedings of the Committee of 1851. Some offered gentle opposition, protesting merely to keep up an appearance; others were earnest or obstinate in the discharge of their obligations to the law; but all were reticent, all guarded well their speech.

Like Cæsar prostrate with disease, majestic law was now most humble; it remonstrated, but with benignant mildness; it resisted, but so gently as to invite rather than repel advance—for which consideration the people were devoutly thankful.

There is no special blame to be attached to the better class of the law and order party, to those who honestly believed that the interests of the state demanded implicit obedience to legislative enactments, and that the letter of the law was paramount to the spirit of the law. The several classes of this party viewed the question from totally different standpoints.

Beginning at the lowest class: Criminals themselves regarded law-courts with favor, because they were their shield, their protector from popular fury, their father-confessor and absolver. To the moneyed murderer the courts offered absolute immunity from punishment. Not only this, but trial was equivalent to amnesty; the jury's verdict was the general pardon that consigned to oblivion past offences. This is no random statement; the fact is fully substantiated by

the criminal statistics of the time. Says the *Herald* of July 4th:

"It is now fourteen months since the district court went into existence, and during the period from April 20, 1850, to May 23, 1851, the whole number of persons committed for trial at that court amounted to one hundred and eighty-four. It is a startling fact that of this number but nine remain now in custody, paying the penalty of their offences. Seven have been discharged by the grand jury, six have died, and two have been pardoned. Besides these nine some few others of the one hundred and eighty-four are in prison awaiting trial; but of the whole number, nine only are in custody under sentence. Forty have been admitted to bail, and doubtless will never again be heard of. Sixty-one have been acquitted and discharged by order of the court, and twenty-one have escaped and have not been retaken."

Petty and poor offenders only were punished. Able counsel was secured by money, false witnesses were suborned, and judges and jailers made lenient. I do not mean to say that all officials, nor the half of them, were open to bribery. There were some as pure judges on the bench then as now. Yet money, if not directly, then indirectly, would buy acquittal or pardon. Looseness and generality characterized law proceedings. Money would impanel a jury favorable to the accused; if not at the first, then the case would be postponed from time to time, until characters suited to the emergency of the case could be installed as jurors. All the technicalities of court procedure were employed for the acquittal of the accused. Criminal cases were held in abeyance until witnesses could be spirited away. So that criminals and all those who lived by crime, either as its defenders or prosecutors, were from the very nature of the case opposed to any interference on the part of the people.

Then there were the higher classes of various grades who opposed the vigilance movement from principle. From their youth they had been imbued by precept and example with the importance of forms, until the essence of things had become secondary. And as well might we look for water to refrain from seeking its level, as that class-bias, and party-

bias, and the bias of education, even in minds learned and discriminating, should leave opinion untrammelled. It is so easy to think ourselves honest and intelligent in our beliefs where interest and pride of opinion are at stake, that we should condemn only where we are willing to be condemned.

In my dealings with the law and order party I hope I shall do them no injustice. That I shall not be influenced by feeling I am sure, for I entertain no animosity toward them, or any one of them. I have many friends and not a single enemy in their ranks; and while I would not willingly wound the feelings of any, I deem it my duty, here as everywhere, plainly to speak the truth as it comes to me—else I cannot write.

Pet names were given the opposition by the appreciative people, who in this manner often come nearest the true character of a man or measure. They were playfully called 'law and disorder party,' 'law and murder party.' The law party was indeed without order, and the order party without law; one was lawless, but loving order; the other full of law, but lacking order. To one of the judges of the supreme court was given the sobriquet 'Mammon,' and to another, 'Gammon.'

Several cases of poisoning came up about this time, which, from their nature and the inability of the courts to reach them, called forth the following from the editor of the *Picayune*, the 13th of June:

"To know that such a transaction occurs in the heart of the city, and is let pass without examination, without investigation of any sort, is sufficient of itself to drive an outraged and injured people to the wildest acts of desperation. Numbers of persons condemn the action of those who on Tuesday night hung a wretch, guilty of arson and murder in one continent, and of burglary, at least, in another. For our own part we regret that the trial was conducted in secret, and by persons who were not delegated by the people to act as jurors; but when either the law is so imperfect or the administration of it so lax as to suffer such deeds as the two recorded above to be perpetrated, without not merely punishment, but investigation; when it is known that within the past twelve months fifty-four murders have been

committed in San Francisco, we cannot wonder that honest men should be driven into taking the law into their own hands, into constituting themselves judges and jurors, and protecting themselves, when the law fails to do it, by executing summarily persons detected in the commission of crime. A great outcry has been made about the danger of secret societies acting in the manner in which the Committee of Vigilance did on Tuesday night. Certain timorous gentlemen seem to fear that they themselves, though guiltless of crime, will be suddenly hurried off some dark night to a lonely place in Happy Valley, and without a chance to speak to friend or family be choked to death by Mr Samuel Brannan. Certain legal gentlemen, with an acuteness for which they are remarkable whenever their interests are endangered, encouraged this belief; and the consequences are that a matter which should have been dropped at once has been kept in agitation for several days. The good effect which the lynching might have had on the rogues and villains around town will all be dissipated, and the murderer and burglar will walk around more daring than ever when they know that to the sympathies of the scoundrelly they can unite the folly of a large portion of the honest citizens. For our own part we do not stand in any very great fear of Mr Brannan; we are inclined, too, to think Mr Ward quite a gentlemanly and quiet personage; Mr Battelle we don't consider a desperado; nor, in fact, in reading over the names of the Vigilance Committee do we see one man who is quite as bad as Windred, Stuart, or Adams. In fact they are all pretty decent fellows. Neither do we fear that this Committee is going to prove an inquisition in the city, nor its members decemvirs. Such a thing will never be attempted here, and if it were, the gentlemen composing the Vigilant Committee would be the first indignantly to frown it down. We have no fear that an honest man is going to be hanged at midnight by them; and we confess the weakness of going to sleep with a greater feeling of security from the knowledge that some of the members may be under the window. The secret society which is dangerous here is not this association of respectable citizens, but the organized band of Sydney scoundrels who meet at the foot of Telegraph Hill and in back alleys near Pacific street. These men we dread; and we have some little fear, likewise, of those men who make a rule of standing between justice and the people on nearly every occasion."

There was a strong opposition to the organization of 1851, of which Broderick and his political retainers were chief; but so secret and so rapid were the movements of the Committee that the men of law and order did not know when or where to strike. Had it been known how few were actually engaged in the execution of Jenkins he would probably have been wrested from them by the officers of the law and the movement crushed in its incipiency. Unlike the more substantial and sedate organization of 1856,

whose strength lay in its moral and intellectual solidity, the material composing the Committee of 1851 was somewhat mercurial, though wily enough to do its work and talk of the consequences afterward.

David C. Broderick in the early part of his career was a professional politician of the New York type, rough and self-reliant; honest as a rule in his intentions, but often erroneous in his opinions. Born in Washington in 1819, he was taken by his father, a stone-cutter, to New York in 1825, where, when grown, he kept a drinking-shop, ran with a fire-engine, and manipulated primaries. Arrived in California in 1849, without education, but with marked ability, he became a hard student and let fly his ambition, which carried him at length to the United States senate. Possessed of many objectionable qualities, he was not without redeeming traits. His ambition was laudable, his perseverance indomitable, and his habits exemplary.

On the 9th of July a meeting was held at the house of the Saint Francis Hook and Ladder Company, with Broderick, McHenry, Rice, Randolph, and Duane as speakers. Resolutions were submitted which were to be presented to the city officials for their signatures, pledging the signers, so far as lay in their power, to prevent the infliction of punishment without due process of law, rallying to the support of the threatened, and defending him with their lives.

At the autumn elections an independent ticket was nominated by those who regarded party distinctions in the political contests of this coast as obsolete and foreign to the interests of the commonwealth. This movement was charged by their opponents upon members of the Vigilance Committee, who by thus employing their organization for the furtherance of their power were said to be but fulfilling their chiefest aim entertained from the beginning.

Never was a statement more absolutely foreign to the fact. All the interests and instincts of the class composing the vigilance association were opposed to meddling in politics. Money was what they wanted; protection for their property, and that safety for themselves which would enable them to increase it. It was a lack of that which was now charged upon them—interest in the affairs of the government—that had brought all this trouble upon them. If from the beginning the members of the Vigilance Committee had done their duty as citizens, and voted honest and efficient men into office, there would have been no need of their organizing a special crusade against crime. As it was, they utterly repudiated the act and intention charged. At a meeting held the 26th of August the Committee refused to recognize the ticket in question, or any other ticket, and resolved forever to abstain from any participation in politics.

"Whereas," said they, "it is with deep regret that we learn that a political ticket for the coming county election has been put forth purporting to emanate from certain members of this association; and believing it ruinous to the objects of our formation for us to recognize any ticket of a political character, resolved, that this Committee disavow all participation in the formation of the said ticket, and wish it distinctly understood that they will in no manner lend it their countenance or support as the Committee of Vigilance."

The 18th of June an inflammatory handbill was posted about the streets, calling an anti-vigilance meeting the following Sunday afternoon. It is remarkable neither for its logic, good taste, nor truthfulness:

"MASS MEETING TO SUSTAIN LAW AND ORDER.

"The people of the city and county of San Francisco, republicans one and all, are called upon to choose now, ere it is too late, which they will serve—the law and order power of our city, or the dictators and anarchists who have lately disgraced our city by their lawless and criminal proceedings, and are

yet endeavoring to assume unlimited and unlawful power in the punishment of criminals. Even now they are going from door to door, from city to city, soliciting desperate men to join their secret Committee, with a view to transfer the criminal jurisdiction from our legally constituted tribunals into their own irresponsible hands, thus subverting all government, all law, all justice, as made and provided by the United States and our own state constitution. Will ye, lovers of law, and order, and social compact, longer tolerate such men in their career of murder and subversion of the laws, among whom are those guilty of the very crimes they profess to punish? Shall it be said that our police is not of sufficient force to arrest these murderers, and our city officials shall wink at their outrages, thus perjuring themselves? Shall we tolerate, in this enlightened age, a Danton, a Robespierre, or a Fouché, and all the paraphernalia of a secret inquisition for the suppression of our laws and criminal courts? Then to the rescue of law and order from the hands of a secret inquisition, every good citizen, and without further invitation turn out *en masse* to a public meeting to be holden on the plaza, Sunday next, June 22d, at three and a half o'clock, P. M., and there join in the general opposition to the acts and further operations of midnight murderers; and let the civilized world know that we can and will support law and order, and that our social compact shall be as much observed by the wealthy criminal, public robber, and law subverters, as by the lowly thief.

"MANY CITIZENS."

It is said that the mayor interposed his influence to suppress this movement, on the ground that no benefit would come of it, but that on the contrary such a proceeding would breed only greater confusion.

"In the official report," says the *Herald* of August 5th, "of the proceedings of the Young Men's Democratic Association at their meeting on Saturday evening, we find the following: 'Mr Randolph offered the following resolutions, which were seconded but lost:

"'*Resolved*, That a true democrat must hold the constitution and the laws of his country inviolably sacred, and scrupulously respect the forms of legal proceedings, whereby life, liberty, or property is to be effected. That we will not give our support to any candidate for any office who individually or as a member of any association has systematically and with premeditation abridged any of the chartered liberties of the citizen, and especially who has resisted or evaded the great writ of *habeas corpus*, or has held persons to answer for capital or other infamous crimes, otherwise than on presentment and indictment by a grand jury, or has denied them the assistance of counsel or the right of trial by jury, which the constitution of our state declares shall be secured to all and remain inviolable forever; or who has counselled or approved, aided or abetted any other person in doing any of these things.'

"This places the question fairly before the people, and we wish nothing better than that the issue may be made in the next election. The *Star* says the resolutions were lost, but we hope the association will revive them, and

either repudiate or avow explicitly the principles they contain. Some of the gentlemen on the democratic state ticket, among them Mr Heydenfeldt, the candidate for judge of the supreme court, have approved and abetted the course of the Vigilance Committee. We desire now a distinct avowal on the part of the leaders of the democratic party whether those gentlemen are to be blackballed by any portion of their own party at the next election for the expression of their opinions."

The mayor of the city issues his pronunciamento in terms following:

"TO THE CITIZENS OF SAN FRANCISCO.

"We have arrived at an important crisis in the civil and social condition and prospects of our city. A voluntary association of men has been formed, under peculiar bonds to each other, and assuming most extraordinary and irresponsible powers, and has undertaken to institute extra-judicial proceedings in forms not known to the laws. This association claims and exercises the right to inflict penalties upon those adjudged by them guilty of crime, even to the penalty of death, and has publicly and boldly inflicted that penalty in two instances.

"They claim and exercise the right of domiciliary visits, without any accountability, of a character not known under any other than inquisitorial governments. The great and sacred writ of *habeas corpus* has been rendered by them ineffectual, and the authority of the highest tribunal of the state disregarded. The circumstances in which the authorities are placed in consequence seem to demand of me, as the constituted chief magistrate, some action by which the views and purposes of the city government, over which I have been called to preside, may be indicated to the citizens, to the country, and to the world. The people of the United States, of whom we are proud to be considered a part, have always attributed their eminence above almost any other people in the scale of freedom and security in their rights to the fact that they live under a government of laws of their own voluntary adoption. The people of California have taken perhaps a more conspicuous place than those of any of the sister states, under a full recognition of that republican medium of public authority and of common protection. The several departments of the only government which any man among us can possibly acknowledge have been created by the constitution and laws, to which you as well as the public officers have given a common assent. These departments have been committed to the administration of men taken from among yourselves, and they have entered upon their trusts, doubtless, with a firm reliance upon the loyalty of their fellow-citizens to the constitution and laws for a steady support in the exercise of their respective functions. The obligation of such a loyalty on the part of the people is unquestionably as imperative upon them as any of the obligations of the laws can be upon those who are intrusted with their public administration; and the violation of obligation on the one side is as disastrous to the community as the abuse or perversion of official station can be on the other. The idea that any defects in the law, or

any incompetency of its execution, can be remedied by voluntary associations of citizens, assuming a superiority to the laws, is not only preposterous, but implies an abrogation of all law, and resolves society into a state of perfect anarchy. The result is inevitably the same, however intelligent may be the minds, pure the motive, or temporarily beneficial the acts of those who become so associated. In a community like ours, where the institutions of government have but just been established, any combinations of citizens for purposes not authorized by law, and whose proceedings are not controlled by law or subservient to the support of constituted authority, can have no other than an insurrectionary tendency throughout the commonwealth, and must to an absolute certainty inflict disgrace upon us in the estimation of our countrymen in other parts of the Union, and ruin the confidence which it is of first necessity to our prosperity to secure throughout the commercial world. With these views I feel impelled, by the strongest sense of official duty, and by every consideration for our common welfare and public character, to call upon all citizens to withdraw from such association, and to unite in a common effort to support the laws and to sustain a prompt and energetic administration of them in their proper application and action. In addition, I deem the present a proper occasion to announce, in the most distinct terms, that I shall not shrink from a prompt discharge of the duties which the statutes of the state and the ordinances of the city have made imperative upon me; and that there may be no misapprehension in respect to what these duties may be, I have to call the attention of all citizens to the provisions of the act to regulate proceedings in criminal cases, chapter iv. I, however, appeal to the good sense and deliberate judgment of my fellow-citizens to relieve me, and the other public functionaries of the city, by their common submission to public order, from the necessity of any application of the requirements of that act.

"C. J. BRENHAM, *Mayor.*

"*Mayor's Office, July 11th.*"

From the report of the grand jury for the special July term I extract the following:

"There is another subject to which our attention has been directed by the presiding judge, in his able charge, which has occupied much of our time and serious consideration. It is well known that a large portion of our best and most worthy citizens have associated themselves together, and without the intervention of our legal and constituted tribunals entered upon the investigation of criminal charges against several persons, and executed sentence of condemnation and death. When we recall the provisions of the constitution of our government, which it is the bounden duty of every citizen to support and maintain, that no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law, and find also the same provision and language in our state constitution, we feel convinced, doubly convinced, while we believe the members of that association have been governed by no improper motives, that their proceedings are

unlawful and in violation of the fundamental law of the land. We fear, too, the powerful example of those proceedings may engender a spirit of insubordination, or afford a pretext to other individuals or associations here or elsewhere in our state, who may not be governed by the same honest motives, or restrained by the same careful investigation of facts, for the perpetration of deeds of violence, which may lead to anarchy and abuses dangerous to the lives and property of citizens. When we recall the delays and the inefficient, we believe that with much truth it may be said the corrupt administration of the law, the incapacity and indifference of those who are its sworn guardians and ministers, the frequent and unnecessary postponement of important trials in the district court, the disregard of duty and impatience while attending to perform it manifested by some of our judges having criminal jurisdiction, the many notorious villains who have gone unwhipped of justice, we are led to believe that the members of that association have been governed by a feeling of opposition to the manner in which the law has been administered and those who have administered it rather than a determination to disregard the law itself. Under institutions so eminently popular as those under which we live, the power of correcting all these abuses is with the people themselves. If our officers are unfit for the stations they occupy, if the laws are not faithfully executed, if an arraigned criminal procures his own friends to be placed on the jury that tries him, where is the fault, and where is the remedy? If those of our citizens who are most interested in having good and wholesome laws, and in seeing them purely administered, will not give sufficient attention to our elections to procure proper and sober legislators, judicial and other officers, and neglect to obey the mandates of our courts when summoned as jurors and witnesses, as has been too often the case, can they expect to see justice prevail? And is it not in the neglect of their duties in these important particulars they may find the true fountains from whence have sprung many of the evils we have suffered? The grand jurors, believing, whilst they deplore their acts, that the association styling themselves the Vigilant Committee, at a great personal sacrifice to themselves, have been influenced in their actions by no personal or private malice, but for the best interests of the whole, and at a time, too, when all other means of preventing crime and bringing criminals to deserved punishment had failed, here dismiss the matter as among those peculiar results of circumstances that sometimes startle communities, which they can neither justify nor by a presentment effect any benefit to individuals or the country, and with the assurance that there is a determination on the part of all well disposed citizens to correct the abuses referred to by selecting proper officers to take the places of those who have violated their trusts, and by performing each his part in the administration of the laws. When this is done, the axe will have been laid at the root of the tree, the proper remedy applied for the correction of the grievous evils our city and county have so long suffered, and there will be no necessity for the further action of that Committee. To them we are indebted for much valuable information and many important witnesses."

In answer to this comes Levi Parsons, judge of the district court, and asks the court of sessions to strike

out that portion of the report which refers to the district court. In his motion the learned judge indulged in several assertions, to which the jury took exceptions in the following terms:

"The undersigned, members of the late grand jury, deem it due to themselves to correct a few errors, wilful or otherwise, of the honorable Levi Parsons, judge of the fourth judicial district, made by him in his motion before the court of sessions, to strike out certain portions of said grand jury's report. The assertion that the names of but two witnesses were endorsed on the back of the indictment of Hall and Spiers is correct. The assertion that but two were examined, and that the jury had listened to outside evidence, is false; and they believe the honorable judge knew it to be so when he uttered it, it having been explained to him by one of the jurors, previous to the visit of the honorable judge to Sacramento, that by some mistake—easily made in the press of business—the names of the other witnesses were accidentally omitted. He also stated that he had received a note from the grand jury, disapproving of a certain or certain jurymen then trying the above case. This statement is wilfully and unqualifiedly false, no communication having been sent the honorable judge by the grand jury, either officially or individually."

The court of sessions denied the motion of the district judge holding that the grand jury possessed the undoubted power to examine the conduct of public officers and to express their sentiments on all public affairs.

Immediately after the execution of Stuart a fresh charge was given the grand jury by the court of sessions. The charge from which I extract the following was made by Judge Campbell, an able and upright man. And what he says is true so far as it goes. He throws off a series of general propositions, but hardly touches the real points at issue. To charge the people with murder was simply judicial mud-flinging; and to speak of liberty, constitution, and legal safeguards in the connection was but a little more of that political fustian of which the people were already too tired.

"The court deem it their duty to call your attention to an event of the most startling and fearful character. We are informed that, yesterday, a person by the name of Stuart was taken by an organized association to the Market-street wharf, in this city, and there hanged by them; that a large force

guarded the wharf to prevent the success of any attempt which might be made by the public officers or citizens to vindicate the law and rescue the deceased. This outrage took place in the open day. It is wholly without excuse or justification. The question has now arisen whether the laws made by the constituted authorities of the state are to be obeyed and executed or whether secret societies are to frame and execute laws for the government of this country, and to exercise supreme power over the lives, liberty, and property of our citizens; whether we are now to abandon all those principles which lie at the foundation of American law, and are the birthright of every citizen, which from the earliest period of American history up to the present time have ever been cherished by the good, the wise, and the great. Are the people willing to throw away the safeguards which the experience of ages has proved necessary, to trample the laws and constitution underfoot, to declare that law is inconsistent with liberty, and to place life, liberty, property, and reputation at the mercy of a secret society? If such be the disposition of the people; if the Spanish inquisition is to be revived here, with all and more than all its former terrors; if without, or in defiance of, all legal process, by the mere order of a committee, men are to be arrested, secretly tried, and suddenly executed; if the tap of a bell is to be the signal for hundreds of armed men to assemble instantly together, and to execute, in open day, their unlawful and treasonable designs, it is time for every man who values his life, safety, and honor, to shake the dust from his feet and seek out some new home where he may hope to enjoy the blessings of liberty under the law. But if, on the other hand, we have not quite forgotten the principles upon which our government is formed; if we believe that the constitution and laws of our country should be reverenced and obeyed, and that public order and tranquillity should be preserved; if we believe that persons accused of crime should have an open, public, and impartial trial by a fair jury of unprejudiced citizens, and should have a reasonable opportunity of making their defence, of employing counsel and summoning witnesses; if we believe that the good name and reputation of our citizens is to be protected from a secret scrutiny, where accusations are made under the influence of fear, by persons of questionable character; if we believe that our houses are to be protected from unreasonable searches, without color of authority, it is our solemn and bounden duty to take immediate and energetic measures for the suppression of the spirit of reckless violence which overrules the laws and sets the constitution at defiance. When you first assembled, the court called your attention to the unlawful execution of a man named Jenkins by an association of citizens. We considered that act as greatly palliated by the circumstances under which it was committed; that the laws had been defective, and that perhaps there had been some laxity in their administration; that the county had no sufficient jail for the detention of prisoners; that crime had increased to a fearful extent, and that a portion of the citizens, deeming that the law afforded them no protection, had in that instance undertaken to execute what they conceived to be summary justice, in violation of the law, but with a sincere desire to advance the public interests. We further stated that the law had been amended in many respects, so as to secure the speedy trial and conviction of offenders, and in some cases to increase the measure of their

punishment; that the county jail had been put in a proper condition for the safe-keeping of prisoners; and we expressed the hope that no further attempts would be made to interfere with the legally organized tribunals of justice, or to wrest from them their just powers and attributes. From the time of your assembling the court, the grand jury and all the officers have been actively and constantly engaged in the performance of their duties. At the time when they were making every possible effort to dispose of the criminal business of the county, and when the court was in actual session and in the performance of its duties, an association of persons, of armed and organized men, have undertaken to trample on the constitution, defy the laws, and assume unlimited power over the lives of the community. There is no excuse or palliation for the deed; it is a gross and glaring outrage; it seems to have been done for the express purpose of hurrying on a collision between the courts, and all fond of law and order on the one side, and the association referred to on the other. If the deceased was guilty of any crime, he could have been immediately indicted, and within a week, or at most ten days, tried, convicted, and sentenced. Public justice could have been vindicated without infringement of public law. Every person who in any manner acted, aided, abetted, or assisted in taking Stuart's life, or counselled or encouraged his death, is undoubtedly guilty of murder. It is your sworn and solemn duty, which you cannot evade without perjuring yourselves, carefully and fully to investigate this matter, and to do your share toward bringing the guilty to punishment. Upon your fearless and faithful discharge of the sacred trust confided to you depends in a great measure the future peace, order, and tranquillity of the community."

Commenting on which the *Herald* of July 14th says:

"We would fain forbear commenting on Judge Campbell's charge to the grand jury on the execution of Stuart, but its judicial character gives to his speech on that occasion a gravity and importance that must render any erroneous views he has taken exceedingly unfortunate. It would take much of extravagance to lessen in the smallest degree the great respect entertained for Mr Campbell by his fellow-citizens. In addition to the warm personal esteem with which he is regarded, the most implicit confidence is reposed in his official integrity and zeal; but in this charge we regret to say that he has assumed positions wholly unwarranted by any legal necessity, and wanting that equitable and common-sense regard to the exigencies of society which in every free country should mould and fashion the action of the judiciary. The judge is reported to have stigmatized the execution as an outrage, without excuse or palliation, and every person who in any manner acted, aided, abetted, or assisted, or counselled, or encouraged, as undoubtedly guilty of murder. We remember in this city many instances within the last year wherein good worthy citizens, who had never offended against the law, and were useful members of society, were foully murdered for gold; we remember when Captain Jarvis, than whom a more manly, honest, kind-hearted man never lived, was struck down by the knife of the assassin at his own door,

with his infant in his arms and his wife by his side; the murderers were never stigmatized by the presiding judge with half the rigor exhibited in this charge of Judge Campbell against the Vigilance Committee for the public execution, after a fair trial, of a desperado whose life from childhood had been a long series of bold and successful crimes. Now we will take these two homicides, phrasing them legally, and we ask Judge Campbell if by any process of reasoning he can satisfy any rational being that one is equally culpable with the other? Again, the severest punishment which could be inflicted on Stuart was death. The punishment of murder is death. But crimes deserving an equal punishment should be of equal atrocity; therefore, in Judge Campbell's view, there is no difference in guilt between the member of the Vigilance Committee, who never committed a crime in his life, but who was present at the trial and execution of Stuart, and Stuart himself, whose soul was callous with a thousand crimes. Can he prevail upon any grand jury to entertain so extraordinary a proposition? But this is absolutely nothing to the inconsistency which follows. We believe there are between eight and nine hundred men in the Committee. Besides these there were at a low calculation two thousand five hundred persons present at the execution. It is quite safe to say that three thousand persons witnessed the occurrence. These three thousand persons did not make an effort to arrest it, did not protest against it, did not by voice or gesture or word or deed oppose it. They are, therefore, accessories, and according to the judge's charge undoubtedly guilty of murder. He adds that it is the sworn duty of the grand jury, a duty they cannot evade without perjury, to do their part toward bringing those persons to punishment—that is, to indict them for murder. If, then, it be the duty of the jury to indict them for murder, and if they be guilty, as the judge solemnly pronounces them to be, it is not for the idle ceremony of an indictment and trial, it is with a view to their punishment, that the grand jury are instructed to bring in an indictment against those three thousand persons, and the punishment of murder is death; therefore it is the punishment by death of three thousand citizens which the judge's charge involves, or, omitting the spectators, of nine hundred men composing the Committee, and all for such a man as Stuart, a thing of course never contemplated by so kind-hearted and benevolent a gentleman as Judge Campbell, who, apart from the discharge of his judicial functions, estimates, we have no doubt, as highly as anybody the beneficial results of the Committee's action. The judge could not then have charged the jury with the intention of having inflicted on these nine hundred men the punishment of death; and therefore his charge, so far, could not have meant anything. But is it a fit time to make charges that mean nothing, replete, too, with unmeasured denunciations of a large body of citizens? We have not space to take up all the points in the judge's charge, but passing by minor things we come to this sentence: 'It seems to have been done for the express purpose of hurrying on a collision between the courts and all fond of law and order, on the one side, and the association referred to on the other.' And a collision would have involved most probably the loss of many valuable lives; and it is of this monstrous crime the judge accuses the Committee! Can he entertain the belief that a purpose so fiendish would have been coldly determined upon by nine hundred of our most esti-

mable citizens? But the judge charges the jury that such seemed to be their intention, and according to the order of the charge the indictment would be for wilful murder, with intent to commit a breach of the peace. What shall we say of this charge but that we reject it as apocryphal, and that we must believe the report to be inaccurate and unjust. After all, let us ask in all candor what moral wrong has yet been done by the Committee? Society has been freed by death from two pests who made a livelihood by the death and robbery of the citizens. Four men who kept places of rendezvous for murderers, burglars, and incendiaries have been sent out of the country. Has society lost by the occurrences? Is there anything connected with the lives of those executed which can excite sympathy, or of those banished to cause regret for their exile? The lives of those two men were long since forfeited to the law, and any citizen would have been justified in killing them who had detected them in the perpetration of any of the hundred crimes their hands were stained with. Had the law been administered properly they would have long since died by the hands of the executioner. What moral wrong, then, has been committed? The law has been violated, it is answered. Ay, the law; but the Sabbath was made for man, and not man for the Sabbath, and the citizen is not made for the law, but the law for the citizen; and whenever the law becomes an empty name, has not the citizen the right to supply its deficiency? What more shall we say but that, though differing on every point from the views held by Judge Campbell in his charge, we nevertheless would not breathe a syllable to shake the confidence that is justly reposed in him, and which he has already earned by his learning, industry, and integrity, and his freedom from all vices, faults, and defects which disfigure the character of other members of the judiciary."

H. S. Brown, associate justice of the court of sessions, viewed the matter in a most sensible light. The day after the execution of certain criminals by the Vigilance Committee he sent in his resignation, and for the following pertinent reasons:

"Notwithstanding scores of criminals have been tried, convicted, and sentenced, and the criminal calendar nearly cleared, yet the people, without the form of law, arrest, try, and execute their fellow-men. Twice, yea thrice, has this been repeated while the court was doing all in its power to arrest crime and bring offenders to justice. On each of these occasions the cause assigned has been the inefficiency and weakness or corruption of the courts. Now if the people have lost all respect for those who fill judicial places, believe them corrupt, capable of being seduced by glittering gold, or if they expect that courts, acting under the solemnity of an oath, can wilfully violate the first principles of law, and disregard testimony, then I hold that it is the duty of the members of the various courts to resign their position, that new ones may be placed in their stead in whom the people have confidence, or elect those who have no conscientious scruples in punishing those who may be charged with crime, whether convicted legally and in accordance with the testimony or

not. After the scenes of yesterday, coupled with the avowals as to the cause as they appear in our public prints, I would not longer occupy the position I have had for the untold wealth of California. I trust, sir, the storm-cloud may pass, that order and harmony may reign; but I tremble lest indiscretion plunge us into scenes of bloodshed and discord."

John McDougal, governor of the state, being duly informed of the condition of affairs, in conformity with his duty issued a proclamation warning all good citizens to abstain from unlawful acts and from unlawful combinations. But upon examination he seemed satisfied that the work proposed by the Committee would be beneficial to public interests, and that an armed opposition would be harmful; and it was so agreed with the executive that the work should go on, and that he would interpose no active opposition on the part of the state so long as the operations of the Committee should be confined to the sphere indicated, unless something then unforeseen should compel him to adopt a different course, in which event he would give them due notice.

Accordingly, throughout the active existence of the first Committee, the governor properly maintained the attitude of nominal opposition only, thus to maintain the dignity of the state, but found no occasion to resort to active measures against the Vigilance Committee.

The governor was severely reprobated as a generally bad character by the press and people both of the cities and of the country. Yet so far as his official acts and attitude toward the Vigilance Committee are concerned, I cannot see wherein he overstepped the bounds of magisterial propriety, unless, indeed, it was when he approved in words of the doings of the association and bade them God-speed.

It was not, however, his pretended opposition to the vigilance movement which was contemptuously regarded, but the ease with which he pardoned notorious offenders, convicted after great labor and expense.

Following is the governor's manifesto:

"EXECUTIVE DEPARTMENT, VALLEJO, July 21, 1851.

"*To the People of the State of California:*

"It has been represented to me that organizations of citizens styling themselves vigilance committees have been formed in various portions of the state and assume powers inconsistent with the existing laws, and serious apprehensions are entertained of collision between the constituted authorities and the citizens thus organized; and it becomes my duty to take some step by which so great a calamity may be averted. It is earnestly hoped that a few simple and practical suggestions may serve to secure this desirable end. No security of life or property can be guaranteed except the constitution and laws are observed. Let these be forcibly dispensed with, their sacredness violated, and submission to their authority refused, and we are reduced to a state of anarchy more dangerous in its tendencies and probable results than the worst laws under our system can possibly be, no matter how corruptly administered. We are just entering upon our career; our character is not yet formed, and people from all climes and all countries are flocking to our shores. It then becomes us to take no unadvised step which shall retard our progress now or prejudice our claims to a high and commanding stand hereafter. But more than this, we owe it to ourselves to impress upon the strangers who have settled amongst us, unacquainted with and perhaps entertaining prejudices unfavorable to the practical operation of our peculiar institutions, that our government is a government of laws, and that though they may sometimes prove inadequate, sometimes operate oppressively or be administered corruptly, the remedy is not in a destruction of the entire system, but is to be secured by a peaceful resort to those constitutional means which are wisely afforded to reform whatever abuses may exist and correct whatever errors may have been committed. The occurrences of the past three or four weeks, the apprehension of individuals within the jurisdiction of legally constituted tribunals, their trial, sentence, and execution, without authority of law, by a voluntary association of citizens, who thus virtually place themselves above and beyond all law except that prescribed by and for themselves, will prove sufficiently prejudicial to our interests abroad, commercial and otherwise, if such organizations, assuming such unquestionably dangerous powers, were now dissolved; but if continued there is no calculating the extent of the injury which may result to us as a state. The dangerous tendencies, in other respects, of organizations of the character under consideration, the excitement produced in the public mind consequent upon their action, resistance to the constituted authorities, which must almost inevitably result, and threatened collisions between themselves and officers of the law in the execution of their duties, cannot but be appreciated and deprecated by every right-thinking and patriotic citizen of the state, and need not, therefore, be dwelt upon here. Whatever may have been the exigency heretofore existing, requiring, or supposed to require, the adoption of extraordinary measures on the part of the citizen, it has now happily in a great degree passed, and such measures should, on this account if on no other, be at once abandoned.

Another criminal code, with more efficient provisions, attaching adequate penalties to the commission of offences, and directing a more prompt and effective administration of justice, has gone into operation. Courts are now enabled to try, sentence, and execute as the offence deserves; safe and secure prison houses are being provided, and the officers, there is reason to believe, are ready and anxious to discharge the high duty imposed upon them by the people. I cannot do less, therefore, than earnestly recommend to my fellow-citizens everywhere throughout the state to aid in sustaining the law, for in this is our only real and permanent security. Associations may be organized, but they should be formed with the view to aid and assist the officers of the law in the execution of their duties, and act in concert with the civil authorities to detect, arrest, and punish criminals. By pursuing this course much good may, and undoubtedly will, be accomplished, and all the dangers which threaten unlawful assumptions of power thus averted. Inefficiency will not then secure impunity to crimes, nor dangerous criminals be permitted to go unwhipped of justice. It is my sworn duty to see that the laws are executed, and I feel assured that all good citizens will cordially coöperate with me in its discharge.

"JOHN MCDOUGAL, *Governor.*"

On this the *Herald* of July 23d remarks:

"This communication is styled a proclamation by the democratic organ, but we presume this to be a mistake. It doubtless was not intended as such by the governor, as it bears none of the marks or signs of such a document, except that it is rather weak and is dated from the executive department. The suggestions, for any practical effect, are as harmless as a bread-pill, and being emanations of the executive mind they will doubtless be received by the people to whom they are addressed with respectful indifference accordingly. We are by no means disposed to find fault with the governor for putting these suggestions on paper and publishing them. It is not every governor who has sufficient strength of mind to enable him to resist the temptation the occasion throws in his way of uttering half a column of wise saw and modern instance advice; and the fact that the premises on which this counsel is based are erroneous, or rather that the necessity urged for its utterance is imaginary, but renders its promulgation the more innocuous. The letter is a very mild letter, and in its tenor pointless and Pickwickian as could be desired. If all Governor McDougal's official and unofficial acts are as innocent as this epistle, he will go out of office a very popular governor indeed. The governor, however, as we have said, falls into a grave mistake. He alleges that apprehensions are entertained of a collision between the constituted authorities and the citizens, and declares his suggestions are thrown out with the view of averting this calamity. We assure the governor that such apprehensions are wholly groundless, and the authorities, if they entertain them, may set themselves entirely at rest as to the occurrence of such a catastrophe. The Vigilance Committee have avoided it from the commencement. They have treated the writs and other process of the courts with marked respect and deference. The officers of the law have been received

at the committee rooms with signal courtesy, and no interference has been attempted with the culprits already in the hands of the judges. If any effort has been made to produce a collision it has not been made by the Committee, and should any yet be made and be sucessful, it will be without their instrumentality. But of such a result there is not the slightest probability, and indeed scarcely a possibility. The moderation which has hitherto characterized the course of the Committee will still mark their progress to the end. Their prudence in the past is the strongest guaranty for their prudence in the future, and the band of criminals which infested our community being at length broken up, the functions of the Committee will by degrees assume the character not only of a detective police but also of an organized censorship of the courts. We cannot believe, then, that the authorities will seek a collision with the Committee, as there will be no pretext for such a course; and both parties strenuously avoiding it, the governor will see that there exists absolutely no necessity for his suggestions. It is needless, therefore, to go into the merits of his advice. One impression of the governor we desire to set right. He says there is every reason to believe the judges are ready and anxious to discharge the high duty imposed on them by the people. This is but partially correct. The community have every confidence in Judge Campbell; they have none at all in Judge Parsons, and so of others. Let the obnoxious judges resign the trust they have abused, and there will be no necessity thereafter of executive pronunciamentos to uphold the dignity of the bench."

CHAPTER XXII.

WHITTAKER AND McKENZIE.

"Arcades ambo," *id est*, blackguards both.
Byron.

HETHERINGTON, in his evidence at the trial of Stuart, gave one Sam Whittaker the credit of being the smartest thief in the gang. He had been transported for life in 1836, and sent from England to Sydney, there to figure as a gentleman and prince among the convicts. However proud Whittaker may have been of his talents among friends, he did not relish their discussion before the rogue-exterminators, with a manacled comrade doomed to death standing by to give particulars. So he thought best to take a trip down the coast. Assuring the delectable Mrs Hogan that he would meet her at San Diego, he started on his journey by land. But the vigilants were soon on his track, and the authorities along the route had warning of his approach; he thereupon changed his tactics and went north, to throw them off the scent, still determined, however, when once he had baffled them, to proceed southward. His movements were followed, and McDuffie and others were appointed a committee to go in search of him. They went first to Stockton, and thence to Chinese Camp. They scoured the country round Jamestown, Georgetown, and Shaw Flat, hearing of him occasionally but without further success. From the Stockton Committee of Vigilance they took a letter to the Vigilance Committee of Sonora, where every facility and encourage-

ment was given them. Their search, however, was fruitless, and they returned to San Francisco and reported to the executive committee the 19th of July.

All the while the game was in the neighborhood, eluding search. Hetherington was right in giving Whittaker credit for ability. It was a most difficult and dangerous feat, that of flitting from place to place among a community of armed miners, every one a self-constituted special police. But Whittaker did not leave Sacramento until the 29th of July. He then took a southerly course, and all went well as far as Santa Bárbara. There he was recognized, arrested, and sent back by steamer to San Francisco.

One morning—it was the 11th of August—as James C. L. Wadsworth was sitting in his office, in the old California Exchange, on Kearny street, Joseph C. Palmer, of Palmer, Cook, and Company, entered and stated that Sheriff Hearne of Santa Bárbara county had a moment before been in his office, mistaking it for the office of Colonel Hays. He had brought from Santa Bárbara a prisoner named Whittaker, whom he wished to deliver to the sheriff of San Francisco county. Palmer explained to him his mistake, directed him to the sheriff's office, and then immediately stepped over and informed Mr Wadsworth.

Whittaker was then on board the steamer *Ohio*, lying at Long Wharf. Wadsworth hurried down, and meeting on the way James F. Curtis, induced him to assist in taking Hearne's prisoner to the Committee rooms. Arrived at the steamer they found the captain at breakfast.

"Captain," said Wadsworth, "you have Whittaker on board."

"What's that to you?" growled the captain, in affable *basso profundo*.

"We want him," said Wadsworth, significantly.

"Have you authority to take him?" grinned the captain.

"Yes."

"Go down in the hold and get him."

Descending, they found Whittaker with his legs ironed.

"Get up and come with us," said Wadsworth.

"Where to?" demanded Whittaker.

"Up town to a safe place," replied Wadsworth.

Whittaker assented, but on reaching the wharf held back.

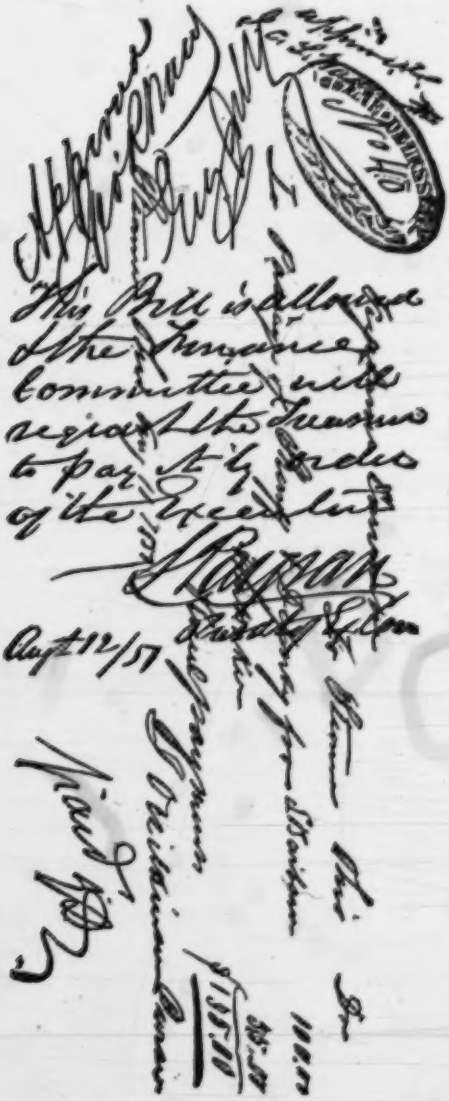
"Where are you going?" said he.

"Come along; it's all right," was the reply. He went without further opposition, hoping, yet fearful, and was marched straight to the quarters of the dread Committee of Vigilance.

When Wadsworth returned to his office the Santa Bárbara sheriff was there awaiting him. Hearne was neither offended nor chagrined, but seemed to accept what had been done as right and proper. He seemed only concerned about pay for expenses incurred in bringing up the criminal; and when Wadsworth told him if he would execute a writing formally delivering the prisoner into the hands of the Vigilance Committee he would pay the amount, Hearne unhesitatingly did so, and Wadsworth immediately paid him the money.

On the next page is given a *fac-simile* of the bill by the steamer *Ohio* for the passage of Hearne, his deputy, and Whittaker.

Another old offender, Robert McKenzie, or McKinney, was caught and incarcerated, and Mrs Hogan was made to attend the call of the executive committee. McKenzie and Whittaker both made confessions, each unknown to the other. The confession of each was submitted to the other, and both to Mrs Hogan; Stuart's confession was likewise submitted to all, and all were verified. McKenzie, who was arrested at Sacramento, had taken part in the Minturn safe



robbery, and made the tour of Trinidad. A number of persons about this time were shipped out of the country; one Otis, a horse-thief, was convicted and hanged by the people at Monterey.

There were two classes of the Sydney fraternity, representing the brain and muscle powers respectively. The former active, bright, and shrewd, skilful in plotting and bold in executing; in conversation intelligent, in manner affable, and in dress genteel. These were the leaders. Those of the other class were inferior and born to obey. The former were gentlemen forgers, highwaymen, and safe-robbers; the latter bruisers, slung-shot strikers, and pick-pockets, of low tastes and brutal demeanor. To all these homeless and forlorn rascals California was a godsend; a worthy land; a country fit to rob, and—be hanged in!

Whittaker, like Stuart, belonged to the knightly order of scoundrelism; McKenzie was base-born and churlish. Ryckman says: "McKenzie I took to be an Irishman; he was a miserable specimen; a monstrous, cowardly wretch. Whittaker was as brave as Cæsar; he was the only man whose execution I regretted; he exhibited so much manliness that he won my admiration."

The Committee now began to surrender its criminals to the courts; and the alacrity with which the law seized its prey showed present hunger and fear of famine, while the new life infused into dry bones and the rapidity of movements under the stimulant given by the Committee, and the fear of ultimate loss of occupation, was wonderful to see. Instance the case of Jimmy-from-Town, one of the Stuart brotherhood, surrendered by the Vigilance Committee to the sheriff at one o'clock on the morning of July 24th, 1851, and by eleven o'clock the same day the grand jury had found an indictment, and had the trial fixed for the following day.

About one o'clock on the morning of July 21st Charles Duane, sometimes called Dutch Charley,

Knight of the Bloody Fist, with Ira Cole, his squire, forced his way into a dancing-room on Commercial street, and denoting his intention to kill a Mr Ball, who had called in question the purity of the shoulder-striker's reputation on certain occasions, proceeded forthwith to attack that individual. After permitting the man of injured honor to knock down and nearly kill his enemy, the company finally placed him under arrest. He was tried and convicted of assault with intent to kill. But was he punished? This was an aggravating case. Duane was an old offender; the assault was made with scarcely any provocation. The desperado, being angry, sought the shortest way to relief. He had caused the community and the Committee much trouble at various times. He was arrested and tried; objections were made to every member of the Vigilance Committee summoned to serve as juror.

The courts, though gladly accepting aid from the Committee in the capture of criminals, still regarded its members more in the light of outlaws than good citizens. Convicted at a term of the court of sessions of assault with intent to kill, Duane was sentenced to one year's imprisonment, but was pardoned by the governor. The pardon called forth several adverse comments from the press, and the people at large were disappointed. "Qui pardonne aisément invite à l'offenser," says Corneille. But little cared McDougal for abstract principle. Could he be governor and leave a friend in prison? Says the *Herald* of the 10th of September:

"In the law intelligence will be found a report from the grand jury, presented yesterday to the court of sessions, censuring the executive for the extension of a pardon to Charles Duane. Although we do not hold that the governor of the state is bound on every occasion to vindicate his official acts in the public journals, yet as Governor McDougal has already, in one instance, made a public statement in justification of his reprieve of Robinson, we think he should, in justice to himself as well as to evidence his respect for public opinion, state publicly the reasons which have moved him to this exercise of clemency, and the names of the citizens who signed the petition for this man's

discharge. We think so, because there is a strong feeling of dissatisfaction in the public mind at Duane's liberation; and in proof of the existence of this feeling we would refer the governor to the report of the grand jury. This city has recently passed through scenes of fearful excitement; the man Duane committed an offence which brought down upon him the intensest popular indignation. The measure of his punishment, one year's imprisonment, scarcely answered the requirements of this indignation. That this period should now be shortened by the interposition of a pardon, has generated, as we have said, a feeling of deep dissatisfaction.

"God forbid we should be supposed desirous of interposing, as the advocate of unrelenting justice, between the active exercise of humane clemency and the man hurried by passion into uncontrollable excesses, and afterward contrite and repentant of his infraction of the law.

> 'The quality of mercy is not strained;
> It blesseth him that gives and him that takes;
> It is an attribute to God himself,
> And earthly power doth then show likest God's
> When mercy seasons justice.'

"But here is a man regarded by the community as dangerous to its peace, so constituted by nature as to be unable to curb his own propensity to mischief, and therefore most unfit to be flung into an inflammable society, where even the voice of the courts, hitherto tardy in administering justice to the culprit, has adjudged him incapable, without evil consequences, for twelve months at least, of mingling freely with his fellow-citizens.

"The grand jury in their report say that 'the late act of the executive of this state in pardoning a certain criminal after he had been tried and convicted of a wanton assault on a citizen, whose only offence consisted in a desire to discharge his duty to the public, is such a monstrous abuse of the pardoning power as to cause serious alarm. If the prisons are to be thrown open at the will of the executive to men of such character, the judgment of the courts, while acting in behalf of the people, will be set at defiance; all protection to unoffending and peaceable citizens will be withdrawn, and grand and petit jurymen will have to protect themselves, not by the laws of the state, but by force of arms.' When asked to give the names signed to the pardon the governor declined."

When Whittaker was brought into the Committee room, Payran as usual began to examine. But the arch-inquisitor on this occasion was evidently not in his usual happy catechetical mood. The bloody brothers, as against the world, were most lovingly united; but among themselves they enjoyed their own little infelicities. *Sub rosa*, Mr Payran was not in possession of his full magnetic powers that day. Applying the loadstone of his wit to the porcelain surface

of the versatile Whittaker, no sediments of sin adhered to it. A short, hollow negative was the only reply he received to every question. To threats he was as imperious as a steel-clad warrior to a shower of feathers. Finally Ryckman took the impotent inquisitor aside and said: "Payran, this won't do. That is no way to examine this man. You cannot intimidate him. Do you not see that he is strong-willed, fearless, and of iron nerves?"

"Well," replied Payran, "examine him yourself, if you like."

"Very well," exclaimed Ryckman, "I will do it. I think I know more of human nature than you do—to-day, at all events."

These society-weeders, some of them, entertained no mean opinion of themselves. With experience and power came pride of opinion, in which garb they did not always appear to their best advantage. Ryckman took a seat beside Whittaker and began:

"What is your nationality?"

"I am an Englishman."

"Have you a father living?"

"Yes."

"A mother?"

"Yes."

"Any sisters?"

"Two," said the poor fellow, already softening.

"Whittaker," said Ryckman, earnestly, "what must be the feelings of your father, mother, sisters, when they learn of the awful acts and end of one they love: convicted and executed for infamous crimes in a foreign land? Think of it—misery, disgrace, death!"

"O God!" he cried, as if now, with the tears that began to flow, his soul was wrenched from its fixedness in sin, "I have been bad, very bad; but let me tell you about it."

"Stop," said Ryckman. "Listen to me. Do not make any confession with the expectation that it will mitigate the least your punishment if you are found

guilty. I feel for you, but feeling and duty I divorced before entering upon this mission. I will leave you now and return in an hour."

Ryckman sent him a mug of ale; then he took a position at an aperture in the partition where he could watch him unobserved. The prisoner seemed much disturbed, and at times apparently suffered great agony of mind. Solitude seemed unendurable to him. Long before the hour had expired, the door-keeper appeared.

"Whittaker says he must see you."

"What is the matter, Whittaker?" asked Ryckman as he entered the room.

"Mr Ryckman," he exclaimed, "you are the first man who has ever touched my heart. The world has hunted me as if I were a monster; you alone have spoken to me as to a human being. I must make a confession to you; if not, I shall burst."

This man and McKenzie were tried by the Committee in the usual way. But the great ulcer having been opened through the medium of the arch-thief Stuart, the later trials were void of interest or excitement. The confessions are worthy of perusal by those who care to know the character and course of criminality in those days. What Whittaker says of himself runs essentially as follows:

"I left Sydney about two years ago by the ship *Louisa*, Captain Malor; I arrived in San Francisco in August, 1849; I got my freedom from Governor Fitzroy; it was a conditional pardon. The first business I began in San Francisco was as steward in a public house kept by Cockstein, on Broadway; I was in his employ about three months. After leaving him I bought a horse, cart, and boat; employed men to work the team and boat for two months. Then I went to butchering in Happy Valley, and carried it on for a year; afterward kept a public house on Jackson street, near Sansome, known as the Port Philip House, with McCormick; I gave it up at the end of two months.

"My name of Samuel Whittaker is assumed; it is the name under which I was transported. I desire to suppress my real name for family considerations, and as an act of humanity. I began my career of crime in San Francisco at the time I formed my connection with McCormick in keeping the Port Philip House. Before this, while butchering, I used to ride my horse two or three times a week to the Mission Dolores to purchase cattle. Sanchez offered me

a splendid mare at one hundred and fifty dollars, which I refused to buy on account of price. James Curry came to me and said the mare was his. Finally I bought the mare, saddle, and bridle for one hundred dollars, and Curry came in with me. I paid him, taking a receipt for the same, then rode the mare around; while doing so a man stopped me and said the mare belonged to Dutch Charley, was stolen, and had been advertised. Finding this true I gave up the mare and looked for Curry; found him, altered in dress, about to leave town. I took him to Elleard's, and there charged him with stealing the mare and demanded my money back; he gave me sixty dollars. Then I took him to Dutch Charley; Charley knocked him down and took him to the station-house. The sixty dollars was taken from me, to be handed back after the trial.

"I was summoned; attended court; the trial did not come off. Jack Hays put me on a jury to try a man charged with stealing a pistol; we found him guilty, and he was sentenced to two years' imprisonment for this trifling offence. Court adjourned; I was again summoned to attend court. I did so. Curry had been let off; his case was never tried. I demanded my money; the officials asked me how long since I had given it up. I said about sixty days; they laughed, and said it was lost in half that time. I mention this to show how justice is administered here. It seemed to me that a thief had a better chance than an honest man. This took place in Levi Parsons' court, who was the judge.

"The first crime of which I was guilty was that of robbing a bear-hunter, named Vyse, the other side of the Mission. In that matter McCormick, McKenzie, Osman, Morris Morgan, and two Kings, were engaged. I knew the bear-hunter, and McKenzie also knew him. McKenzie took the man into another room; Morgan carried off the money, nine hundred dollars or thereabout. When the bear-hunter came back to the room he found he had been robbed; we professed we knew nothing about it. The money was carried to King's house, corner of Broadway and Montgomery streets; but in coming into town one of the party stole six hundred dollars; when the balance, three hundred dollars, was divided among us we only got thirty-five dollars each. The money taken from Vyse belonged to Kelly the fighting man; shortly after McKenzie went to Sacramento and told Kelly who it was that robbed him. Kelly came down from Sacramento on this information, and had McCormick arrested and put in jail; I was then at Monterey. They threatened to lynch McCormick, and got from him some instrument by which they sold out the Port Philip House to reimburse the loss. After this I went down to Monterey with Briggs and Osman; while I was there T. Belcher Kay came down; Osman, Kay, and I went to San José; there Kay had the delirium tremens. Osman went to San Francisco, where he met McCarty and McIntyre, who told him to bring Jim Briggs, Morgan, and me from Monterey, as they had a house to do that would yield forty thousand dollars. We all went to San Francisco; I went in the *Goliah;* after receiving information as to which house it was, we all went to look at it. Finding that Jimmy-from-Town was engaged, I refused to have anything to do with it; Morgan and Briggs also refused. I think the house was that of Schloss Brothers; it was nearly opposite the old custom-house. At this

time T. Belcher Kay was interested in arranging the robbery of the jewelry establishment and other places.

"After this we arranged the robbery of Jansen's establishment; Jansen lived next door to me. Many persons from the colonies frequented my house, and on learning that the country generally wanted sovereigns Jansen told me that he usually had them, that he would be glad to sell them, and would be obliged to me to take them. Morgan went with me into Jansen's to buy some sovereigns; this first gave rise to the suspicion that Jansen had a large amount of money. Jansen was about to move; Stuart, Edwards, McCormick, and I planned this method of robbing him: one of the party slipped a linchpin out of the axle of the cart, on which the trunk containing the money was to be carried, expecting that by so doing the wheel would come off, and on its falling we would seize the trunk. The cart was loaded; Jansen's clerk sat on the trunk with a candle in his hand; the linchpin was pulled out, but the wheel did not come off, and we were disappointed. Some time afterward, Stuart, Briggs, Edwards, McCormick, Kay, Hughes, Morgan, and I planned the robbery of Jansen again, when we had better success.

"While at the Port Philip House a man came in and asked me to trust him for something to drink; I told him no, but I would give him a glass of grog; he drank the liquor, after which he said to me, 'You are a damned clever fellow,' and gave me three hundred dollars to keep for him. Afterward he called for the money; he was inebriated when I gave it to him. There was a man present whose name can be found on the records, but which I forget, who robbed the other fellow of his money and cleared out; on the Sunday night following he came back to the house; I spoke to him about the money he had taken from the man, and asked him 'Where is my share?' He told me that he had left my part of it in the man's pocket for me to get. I said, 'You wait until McCormick comes in.' However he and another man closed upon me. I knocked them down and broke the jaw of one in three places. He prosecuted me for assault and battery. I was arrested, and employed Mr Wells; the case was tried; I was fined one hundred dollars, ordered to pay the doctor's bills, and to be imprisoned ten days on the prison brig. I had paid Wells one hundred dollars counsel fee; I told him and Tilford also that it was inconvenient for me to leave my business, and that I should like to compromise. Wells said it could be compromised for two hundred and thirty dollars, which amount I paid. I state this case, also, to show the manner in which the laws are administered, and the corruption. If it had not been for the manner in which I had been treated, and had seen others treated, I should not now be here.

"The next matter in which I was interested and will bring before you, was that of Windred and Burdue. They were tried for having robbed Jansen, and convicted, but they had nothing to do with it. I exerted myself very much to save them; I told Parburt they were innocent, but did not tell him who were guilty. I had a long argument with Mr Theodore Payne about it. Stuart, and indeed all engaged in the Jansen robbery, and many others, declared their intention to burn the city in case Windred and Burdue were executed; it was to be fired at night in four or five different places. It was the only time that I ever heard the colonial people speak of burning the city.

"The next robbery planned by us was that of C. Minturn. Kay planned this. Stuart was with us. I was not interested in the robbery of the ship *James Casket*. We tried to rob Macondray's store, but it fell through. Kay put up that job.

"Kay also put up a jewelry establishment in a brick building on Sacramento street. I went through the premises and examined them, but declined doing it, on the ground that to effect the robbery it would be necessary to murder perhaps four or five persons. Kay is an ignorant man; he can scarcely read or write; his real name is Gibson.

"McCormick, Stuart, and I went together to shoot a man by the name of O'Flaherty, who had testified in court that McCormick had robbed him in the colonies; he was going to shoot him for it. It was a moonlight night; I said to McCormick that it was too light, and that it would be better to wait until some other time; so he gave it up. I did this to save the man. O'Flaherty lived then in Bryant place. Since the May fire Jack Arrentrue met me on the street; he had frequently been told that I was a very clever fellow; Arrentrue has been after me many times, and pointed out several places to me; I never would engage in anything with him; he took me down and introduced me to a man by the name of Earl. We drank together and then went down to the custom-house; Arrentrue described it to me; said there was eight hundred dollars there; we looked at the drain. Then we went to the other custom-house; he took me inside; we looked at the safe or vault that was building; Earl proposed renting the house next door to the custom-house and opening an architect's office in it, and getting Watkins, and we could rob the building from his office. This was practicable; we went to see Watkins. Our plan, however, was not accomplished.

"Arrentrue and Earl proposed to me to rob the El Dorado; they urged that the interest they had with the authorities would cover our operations. I had got sick of all such work, and made up my mind to leave off, and took no further notice of it. Arrentrue and Earl used frequently to come to my place at Mr Hogan's, and dine with me and play cards. Earl showed me a pair of calipers that he had, and told me they were very useful. Earl told me what a very clever thing he had since done with the calipers. He said that he opened a door, went into a man's room, took the money from under his head, went out, relocked the door, and it was never discovered.

"I was at Marysville at the time of the June fire in San Francisco, but came down immediately. I lived with Mrs Hogan as her husband for four months, during her husband's absence. I knew her in the colonies. I have heard it said that Mrs Hogan had been transported. I told Mrs Hogan about Arrentrue and Earl's proposition; she imagined that I was engaged in robbery. To do Mrs Hogan justice, I must say she has done all in her power to break up my associations and to make me lead a different life. I paid her twenty dollars a week for my board; I also gave her many presents, about twenty-five hundred dollars in all. Mrs Hogan knew all the men that I have mentioned; they used to frequent her house. I was in no business. I derived the money thus: I won seven hundred dollars from Stuart at monte, and I had fourteen or seventeen hundred dollars by me that I had saved while I was a butcher.

"George Adams, McCormick, Hughes, and McKenzie robbed Duzozo on Sacramento street, below Kearny; it was on the south side, and was early in the evening in September or October; it is said they got about fifteen thousand dollars. I was absent at the time.

"I won of Hetherington's companion six hundred dollars; his name was Dan; I won at thimbles. Edwards and myself had been associated; Jones, who had made his escape from Marysville prison, wanted a share of it. As Edwards, Long Charlie, and I had won it together, I objected; a man by the name of Gallagher took up the matter for Jones, and went to my bedroom at Mrs Hogan's on tiptoe, with a drawn dagger, to look for me. Mrs Hogan told him I was not there; there was considerable talk about his going around trying to kill me. A day or two after Gallagher was found dead on the street by Edwards' house; I think that Gallagher knew too much about Edwards' business, and for that reason Edwards poisoned him. I was at the Mission, at Dr Lambert's, at the time Gallagher was looking for me. Mrs Hogan came to me with a letter from Judge Bowie to take to Monterey; it contained certificates of money that Briggs, Morgan, and Osman have in the banks of San Francisco; I delivered up the documents to Parburt. The Monterey trial came on that week; Stuart was there; I think he came down to shoot me either for my money or for jealousy. I knew all about the robbery at Monterey; I loaned Osman, Briggs, and Morgan one thousand dollars. Quick put up the Monterey custom-house for robbery; Ryan was one of the party, and the only one who received any benefit. I was not interested in any of the robberies of the jewelers; McCormick told me of the robberies. I believe, if you keep quiet and do not publish, that the jewelry will be recovered. Osman bought it for six hundred dollars, and I do not believe he has sold it yet.

"I gave Mrs Hogan twenty-one ounces in gold for my board at one time; I had loaned that amount to Osman, and he returned it. The last money I got was twelve hundred dollars, which I gave to Mrs Hogan. This is the way I got it: There was a miner came into Mrs Hogan's house, on Sansome street; Kay, Edwards, and I were there at the time. The miner laid down a large bag of gold; Edwards and I took the money out; I secreted another bag. Edwards and McCormick took the miner off; he had five or six hundred dollars more, which they got away from him. I took the bag containing seven hundred dollars, and divided it with Kay and Edwards, giving them each two hundred dollars, and keeping three hundred for myself. The other bag, containing eight hundred dollars, I did not divide, as they gave me no share of the money that had been taken from the miner. The whole amount I gave to Mrs Hogan; she knew how I got it; she knew we were treating him to champagne in order to effect this purpose. I told her what our plans were. I also gave her about three hundred dollars which I won at gambling with Dan; and the same amount paid me by Briggs of the money I had loaned him I gave Mrs Hogan. I exchanged watches with her; mine was the most valuable. I also gave her a diamond ring.

"T. B. Kay, when port-warden, took McCormick on board a man-of-war in the harbor; the captain possessed a very valuable gold lever watch with a snake chain. While the officer was asleep McCormick stole the watch; he carried it with him when he went to London; I have no doubt it might be

recovered. Kay knew that McCormick had taken it; he afterward was sorry about it, as the captain said he wouldn't have taken one thousand dollars for it, as it was a present from his father. If the Committee write to Dan Forrester of London, or to the chief of police in Manchester, they will send McCormick and the watch back again.

"Old Jack, *alias* Morris Morgan, told me that Hughes did it with two flats—robbed the Dupont-street jewelry store; Hughes was apprehended for it and acquitted. I don't know where he is; he may have gone out of the country. I was told that he took away all of that jewelry. One night it was stated that some of the Vigilance Committee met him; Old Jack knocked them down and jumped a fence. In doing so he said he lost some of the jewelry; amongst it was a small watch, which was found in a hat next morning. Hetherington and I were at Mrs Hogan's at the same time. Hetherington told me that his partner, Antone, was a passionate man; he killed two men; I saw him kill one; it was at the corner of the El Dorado, at night and in a crowd; the dagger stuck so fast that in drawing it out it pulled the man over. Two men were arrested, but nothing was made of it; Antone was never suspected.

"Stuart and George Smith told me that they shot a man on the Stockton road; the man had considerable money. He ran toward the house after he was shot, and died nearly as soon as he had entered.

"I never knew of any one setting a place on fire in San Francisco except Billy Sweetcheese, whose real name is Shears. I heard that he set the United States on fire on the Plaza at the time it was vacant. This is merely rumor. After robbing the miner alluded to, at Mrs Hogan's, we met McCarty, the policeman who was always ready to help us. I gave McCarty three ounces, one each for Edwards, Kay, and myself. I told McCarty that McCormick had got some five hundred dollars, and he must get some out of him too. Brown, in the police, was the man who did the dirty work for policemen McCarty and McIntyre.

"Billy Hughes, John Edwards, and Morris Morgan are runaway convicts. They came from Van Dieman Land. There is no comparison between the convicts from Sydney and Van Dieman Land. The latter are so bad they would not allow them to coem into Sydney.

"I got Windred away when he was under arrest with Burdue. I went to the new jail with Windred's wife and Mrs Hogan; I sent the key in; Tom Byrnes, the man you sent to Sydney, came to my house and said that Windred was out; I got up and went down to the wharf at Pacific street; George Adams and Windred were there; I told Adams to go away by himself. I took Windred to a stable, got horses, and took him to Dr Lambert's, where he stayed for two weeks; I paid his board. Dr Lambert is a man from the colonies. At the end of that time I engaged passage for Windred, and appointed a night to put him on board. I told Kitchen to stand by with his boat, that I had a man to put on board. I gave Windred my old cap, and bought a new one for myself; I put him down a passage-way at Clark Point. Mrs Hogan and Mrs Windred were in waiting; Mrs Windred in men's clothes; in that disguise I had taken her frequently to see her husband. Both women bade Windred good-by, and I put him on board Kitchen's boat, who took him to the ship. The vessel in which Windred was placed re-

mained in port a fortnight, and I feared he would be apprehended again. Windred sent for his wife to go with him, and she went on board, and sailed with him the morning after the May fire.

"Kitchen is a rough, boatman-looking fellow, dirty, very dirty; he kept a boarding-house near Clark Point; he is a stout man, about thirty, dark hair, and heavy whiskers; he is a convict from Van Dieman Land. Kitchen has a specimen, of the value of one hundred and forty dollars, that Stuart took off the body of Moore, whom he murdered at Auburn.

"Purcell, a police-officer, used to take money; he took money of Hughes; he would take money from any one. At the primary election for Malachi Fallon I was solicited by Sweeney, McCarty, and McIntyre, to aid in the election; accordingly I did so, and got some twelve votes, all from men who were convicts and foreigners."

CHAPTER XXIII.

THE CIRCUMVENTORS CIRCUMVENTED.

When in doubt, win the trick.
Hoyle.

At length the law, long paralyzed and puny, awoke with a spasm of energy. Election was approaching. To be or not to be, was the question. The existence of a popular organization for the suppression of crime was a standing reproach upon the honesty and efficiency of the authorities. And even in the minds of city and state officials who secretly sympathized with the Vigilance Committee it seemed necessary to uphold the dignity and sacredness of law, lest this new phase of liberty should degenerate into licentiousness.

Already given is the proclamation to the people of the state by Governor McDougal, dated July 21, 1851, calling on them to discountenance illegal tribunals and sustain the courts. At three o'clock on the morning of the 20th of August Governor McDougal and Mayor Brenham rapped at the door of Sheriff Hays and presented him a writ, issued by Judge Morton of the Superior Court, based on an affidavit made by the governor that two men, Whittaker and McKenzie, were detained without authority of law. The writ commanded the sheriff to take the bodies of the two men and bring them into court, to be dealt with according to law. The sheriff, with a posse of deputies, repaired immediately to the Committee rooms, which they entered without resistance, and while some guarded the door others advanced and called on

the prisoners to accompany them, which they gladly did, and were soon comfortably lodged in jail. One of the guard attempted to push back the officers; two others, suspecting treachery, let themselves down from the window and sounded the alarm on the bells of the California and Monumental engine companies. The action of those in charge of the room was bitterly denounced; and such were the singular circumstances attending the rescue as to raise serious question in the minds of many if there were not collusion between the officers of the law and the officers of the Committee. Daybreak found the streets alive with excited people pouring toward the Committee rooms, where a meeting was in session and the events of the night were being discussed. Some were in favor of arising and making an immediate attack on the prison; others held that in the justice of their cause they could trust that the unholy sympathy thrown by the law over two notorious law-breakers could do the reformers no permanent injury, and they should wait. Thus in every trying event good counsel prevailed; passion, though aggravated by the chattering of apes, must be laid aside, for this was not an association for the promotion of lawlessness, and the law, though not respectable, must in some measure be respected. Therefore it was concluded to let the matter rest for the moment, to permit the authorities to indulge their innocent gambols over their little victory, hoping them thereby good. In the eyes of the sober members of the Committee the affair was but a little stratagem, made successful by the hour, and the laxity of the guard; and the very fact of the law being obliged to employ darkness and circumvention in the execution of its mandates was the surest sign of its weakness. Even now the authorities seemed half frightened at their boldness, and almost panic-stricken at the peril of their situation. How should they defend the law's majesty against the bloody-minded citizen? Turn the guns of the *Vincennes* on the vicinity of Battery

and California streets. Parley. Bring in ordnance from the Presidio. Let the military be held in readiness to answer at a moment's notice. Proclaim an end of the reign of terror; an inauguration of the reign of law. Meanwhile the members of the Committee went about their business, apparently unconcerned in all this splutter and bombast of the officials, determined that no provocation, however severe, should tempt them to the performance of any action which should bring reproach upon them as law-abiding citizens, or upon their organization, made for the purpose of strengthening law and good government; and in this moderation was their greatest victory.

That same day appeared a second proclamation by the governor, calling upon all good citizens to unite for the purpose of sustaining public law and tranquillity, to aid the public officers in the discharge of their duty, and to discountenance any attempt made to substitute the despotic control of a self-constituted association in place of regularly organized government; warning those disposed to resist legal authority that civil war in all its horrors would be the inevitable consequence. The force of this proclamation, however, was materially weakened by a card published at the same time by the Vigilance Committee, which read as follows:

"We, the undersigned, do hereby aver that the present governor, McDougal, asked to be introduced to the executive committee of the Committee of Vigilance, which was allowed, and an hour fixed. The governor, upon being introduced, stated that he approved the acts of the Committee, and that much good had taken place. He hoped that they would go on, and endeavor to act in concert with the authorities; and in case any judge should be guilty of maladministration, to hang him, and he would appoint others.

"G. E. Schenck,
"George J. Oakes,
"Isaac Bluxome Jr.,
"S. Payran."

The enemies of the reformers were triumphant, but their victory was achieved by the humiliation of the country's best friends. Very early one Robinson,

of the Adelphi Theatre, mounted a box, and in an inflammatory and ill-advised speech urged an immediate attack on the jail. The crowd then gathered separated for refreshments to the several hotels and drinking saloons, and about nine o'clock some two thousand men gathered round the prison. This, however, was but a mob; it was not thus that the Vigilance Committee did its work. About an hour later the crowd dispersed, and thus ended what at one time threatened to be a serious outbreak.

At a special meeting in the executive chambers, at 8 o'clock A. M., the prisoners Whittaker and McKenzie were reported by the prison committee as captured and then at the county jail, in cell No. 5. Thereupon a committee of five was appointed to investigate the charges preferred against the guard on duty the night previous. Meanwhile the chief of vigilant police was suspended from duty. The meeting then adjourned till 4 o'clock P. M.

Among the general committee, as might easily be imagined, there was no small commotion. Some proposed to tear down the jail; others to take possession of all the county offices. But the wiser ones rebuked them sharply. "You would eradicate your folly by committing greater folly," said they. Nevertheless there was but one sentiment, that the men Whittaker and McKenzie should be recovered.

There was a mystery attending the seizure that the executive determined, if possible, to fathom. Indeed, in common with the people at large, they could not understand how the men were abstracted without exciting more commotion. Mr Bluxome states there were a hundred members about the premises that night, tenfold more than enough to have successfully resisted the sheriff; twenty-nine men were on guard, and he was sleeping on a table in the adjoining room. A burly blacksmith, named Steele, stood guard at the door, and when Hays and Caperton knocked they were admitted without resistance sufficient to

waken him. Mr Ryckman was not present, but Payran, placing the utmost confidence in the guard, was asleep in the executive room.

At the request of the Committee, John McDougal, governor, appeared before them at their rooms and stated that in the hotel at Benicia the day previous, which was the 19th, it was reported that the Vigilance Committee were to meet during the night to sentence Whittaker and McKenzie, and he determined to come down and prevent an execution, if possible. On arriving at the Union Hotel about noon he was told by two men who were, or professed to be, members of the Vigilance Committee, that the prisoners would be executed the following day.

On receiving this information he proceeded immediately to Mayor Brenham, and asked his assistance in rescuing the prisoners. Brenham acquiesced, and the two officials called upon the sheriff. The next thing necessary was a writ of *habeas corpus*, which, after some search for a judge, was finally obtained from Myron Norton. The party then proceeded to the rooms of the Vigilance Committee and knocked at the door, which was opened. Caperton, deputy sheriff, entered first, then Hays, the sheriff. The door closed, McDougal remaining at the head of the stairs, and Brenham below, outside the building. In a few minutes the sheriff and his deputy returned with the prisoners, without having encountered any resistance. On being asked who had given him the information at the Union Hotel, he declined to answer.

Mayor Brenham confirmed before the Committee the statement of the governor, adding that prior to the conference at the sheriff's office it was their intention to have appeared at the Committee rooms in full force, with a writ of *habeas corpus*, the following morning at eight o'clock. The mayor was perfectly certain that no member of the Vigilance Committee, or any persons other than those who came, had cognizance of their intention; nor was there any collusion,

directly or indirectly, between them and any members of the Vigilance Committee.

Sheriff Hays stated that he was in bed when the governor and mayor called. He at first thought that duty did not demand of him interference, and asked his visitors if they knew the men were to be executed the next day. They were sure of it. He then proceeded to serve the writ, meeting with no resistance on entering the room and but little on leaving it.

J. L. Van Bokkelen, chief of the vigilant police, being sworn before the executive committee, said that pursuant to the instructions of the Committee he had proceeded to select a place for the execution of the prisoners, and had reported to the Committee, who instructed him to make the necessary detail of guards and other preparations. In the exercise of this duty it was necessary for him to leave the room twice. He had given McKenzie permission to change his linen and to shave; he had ordered the good spring handcuffs which ornamented his wrists to be taken off and poorer ones substituted, so that the good pair might not be lost to the Committee when the body should be taken by the coroner. During the consummation of these arrangements the capture was made.

P. P. Hull, on reporting for duty that night, was told to arm, which he did, and was then told to hold himself in readiness for orders which he never received. While in the refreshment room he heard a scuffling and call for the police. He ran out and found a crowd about the door, and heard the sheriff say: "We are too strong for you; we have a posse outside." Letting himself down by a rope, he came upon the captured prisoners, and cocked his pistol, but refrained from firing.

Some fifteen or twenty others were examined before the Committee, and among them Steele, the doorkeeper. This man testified that when the sheriff applied for admittance he was crowded in by those behind him, and that when the prisoners were brought

to his door on their way out, while some placed their back against it to prevent exit, those outside forced it open, and in the melee that followed the sheriff and his followers escaped with the prisoners. The *coup de main* was so sudden that the guard became confused and hardly knew what he did.

This evidence was given before a sub-committee appointed by the executive committee, and their report was in the following words:

"The committee respectfully submit the entire evidence taken, and leave the Vigilance Committee to judge for themselves of any culpability on the part of those intrusted with the charge of the prisoners last night and this morning. Your committee, while they feel it their duty to exonerate all from the least imputation of bribery or connivance at the escape of the prisoners, feel it their duty to say that there was a great want of their usual care and of that caution which the importance of the duty assigned them required; and that they deem the chief of police especially guilty of gross neglect, and wanting in that energy and self-control which if properly exercised would have prevented the escape of the prisoners, and thereby would have saved the Vigilance Committee from the disgrace of neglect which must now rest upon it. And your committee cannot conclude without expressing their condemnation of the course taken by those members of the Vigilance Committee who were so estranged from their duty as to inform the governor of the intended action of the Committee, which rendered it imperative upon him to adopt the course he did, and which has so effectually checked the important action of the Vigilance Committee."

At the adjourned meeting the committee reported according to the facts obtained. The chief of police was instructed to keep a guard of twenty men over Whittaker and McKenzie, then in custody of the sheriff, lest either by force or connivance should escape. It was resolved that the sentence of death pronounced upon them should still remain in force.

On account of the strong feeling against him, whether guilty of actual connivance at the escape of the prisoners or not, Van Bokkelen resigned his position as chief of police, and Oscar Smith was elected in his stead. In this ballot, which occurred at a general meeting on the 26th of August, James King of Wm. received two votes, and F. Argenti and J. W. Cartwright each one vote.

The utterances of the press did not fairly represent the sentiment of the more calm and thoughtful element of the Committee. It breathed of the mob spirit, which tended to retard rather than to accelerate the movements of the Committee, and to impair the quality of their work. Doubtless it expressed the feelings of a majority of the general committee, but not of those who were trusted and obeyed as the safe and worthy leaders of the movement. The authorities were simply doing their duty, and the Committee could not make up their minds, at this juncture, to shoot them down while in the discharge of it. The *California Courier* of the 21st of August writes:

"As soon as this wicked attempt to involve this community in excitement and perhaps bloodshed, for no cause whatever, had succeeded, the bell of the Vigilance Committee was tolled, and the members left their sleeping-chambers for the Committee rooms. The excitement was tremendous. There are Judases in the Committee's camp. Some one has betrayed them. Let the Committee look to this. We shall not advise them what to do, for they are better informed, and will no doubt all act with firmness and discretion. The authorities, however, who were engaged in this unnecessary attempt to produce a collision between the people and the authorities, have dug for themselves a grave so deep that the hand of resurrection cannot reach them.

"In the morning at an early hour an immense assemblage of the people gathered around the jail, under the expectation that a forcible attempt would have been made to break open the jail and seize the prisoners. Had they attempted it and been resisted by the mighty men in buckram who were pacing the roof of the jail, the people would have blown them into fragments sky-high, and made their flesh and bones food for coyotes and crows upon the surrounding hills."

The comments of the *Herald* the same day, though more pertinent, are nevertheless not in exact accord with the minds of the mysterious few which governed all, and round which revolved the passion-seething multitude:

"Much as we have admired the conduct of the Committee on other occasions, we think their course yesterday, under the severe provocation they received, was more praiseworthy than any victory they have yet achieved. They regarded the affair as a very stupid piece of chicanery by which they had been overreached in the discharge of their duty, but they preserved a perfectly calm demeanor, certain that sooner or later justice would take its

course. While the authorities were hurrying up and down in perfect amazement at their own desperate valor, issuing orders for muskets, cartridges, and cannon, the members of the Committee were quietly pursuing their usual avocations, wholly unmoved except to laughter at these warlike demonstrations.

"And the pygmies swarmed in the streets, and chattered, and chuckled, and held conferences at the street corners about the wonderful victory they had achieved over the Vigilance Committee and the cause of justice, unmindful, these pygmies, that the same popular will which has broken up and scattered to the winds that criminal organization on which corrupt officials fattened, could sweep them and all their machinery of office, courts, and law into the bay at a single effort. As for the vapid and meaningless document called a proclamation, which was posted up about the city, it is wholly unworthy of notice. It has no point whatever."

And thus, the day following:

"These pets of the law, if we understand rightly, are in custody without any legal commitment, and while so detained are an illegal expense to the county. If they are turned loose again on society a stupendous crime will be committed against the peace and lives of our citizens. The full measure of their guilt is perhaps unknown; it is natural to suppose that men under such circumstances will not confess the perpetration of very grave crimes; but their own admissions show that their hands are raised instinctively and by long habit against their fellows; and that to permit them to go again at large would be to be accessary to murder. A lawyer can nevertheless easily convince a court that against these men there is no proof sufficient to convict them, and the question arises, What will the court order? It cannot have them detained, as there is no testimony against them. They will of course deny their guilt and contradict their admissions. These admissions will go for naught, and the grand jury cannot even find a bill against these men. See, then, the position the law has brought itself into in regard to them. It is to be presumed that none will deny their criminality; about that there can be but one opinion; and yet the law virtually declares such men must not be punished. Law cannot punish them, and law will not permit anybody else to punish them. The men who now presume, after permitting two criminals to be executed without venturing to oppose the Committee, to thwart them in their efforts to restore society to its just equilibrium, to restore energy to the palsied arm of justice, to break up the criminal organization which has pervaded this whole country for more than two years, an organization, too, which has dealt in murder and rapine to an extent which has appalled the hearts of our citizens, an organization which has perpetrated fifty-two murders in the precincts of this city within the last eighteen months, we say those who now oppose the Committee in their efforts to break up this organization seem to forget that they themselves exist in their official capacity but by sufferance, and that the labor of crushing them would be very light indeed."

The night before they were to have met their fate permission was given the two prisoners to shave and

dress in their best clothes. They were to have been executed from the yard-arm of a vessel, in full view of Telegraph Hill, round the base of which so many scoundrels congregated. It may be interesting to some to know the intended proceedings on board the ship.

The chief of police was to detail a guard of true men, well armed, to proceed to the vessel and make preparations for the reception of the prisoners. A clergyman should be allowed on board with the prisoners. The bell should be tolled on shore. When all was ready the water signal should be hoisted and a gun fired. Then the executive should appear upon the shore, and upon the waving of a handkerchief the souls of the condemned should be launched upon the eternal sea, and their bodies should hang for the space of one hour thereafter. But the Committee had forgotten that at the hour named the tide would be low. Furthermore, the risk of failure would have been greater in conducting an execution on board a vessel than on shore; hence that plan would probably have been abandoned.

Four days passed quietly while Whittaker and McKenzie lay undisturbed in jail. Yet no one who thought upon the matter supposed that the Vigilance Committee would allow the affair to rest there. The authorities well knew, or might have known, when they seized the men that they could not hold them. Neither did they care to hold them, or to prevent the Committee from exercising their sovereign purpose. The men deserved to hang. No one questioned it. The Committee, through their ability and energy, had broken up the organization. Let them complete their work; it was better so. Certain base or blundering members, by informing of the intended execution, had obliged the authorities, contrary to their inclination, to make the seizure. It now only remained to the Committee to repair the breach caused by their indiscretion and neglect. The momentary

victory of the authorities had strengthened the Committee rather than weakened it.

Their ranks were swelled by large additions of the most respectable element of society. Money was freely subscribed for the support of the organization, and fresh impetus given to its vitality. People were satisfied that if the two men Whittaker and McKenzie were tried by the courts they would be acquitted and turned loose upon society. Even in face of the overwhelming evidence against them it would be difficult for a grand jury legally to find a true bill, or for a court legally to punish them. Should law, then, prevent just punishment which it could not itself inflict? The Committee were stimulated by obvious considerations, and showed their decision in the following order:

"CAPT. CARTWRIGHT:

"You are hereby authorized to detail a guard, such as you think proper, and arrest two prisoners, to wit: Sam Whittaker and R. McKenzie, and bring them into custody of the Committee of Vigilance.

"Done by order of Executive Committee, August 22, A.D. 1851.

"JAMES B. HUIE, *Chairman.*

"Attest: S. PAYRAN, *Secretary.*"

Sunday was the time fixed upon for the recapture. It was ascertained that there would be service on that day, and it was customary on such occasions to bring all the prisoners from their cells into the main hall to hear preaching. At that time the doors would be unbarred; there would be no locks to pick, no cells to break open.

On Saturday thirty of the Committee met in an old iron building standing on the corner of California and Leidesdorff street, and agreed among themselves to recover the prisoners or perish in the attempt. The first thing was to ascertain the condition of the jail, by whom it was guarded, and what arms were in the possession of its defenders. As it would not do to visit the jail in a body, lots were drawn to determine

who should act the spy, enter the jail, and bring back a report. The lot fell upon Bluxome, who immediately set out on his mission. In front of the building he found the sheriff himself, saddling a mule.

"Colonel Hays," began Bluxome, "you have Burdue yet a prisoner. His was a very hard case. Though I have never met him I have had much to do in his case, and I must confess to a curiosity concerning his strange resemblance to Stuart. I would like to see him."

"Certainly; go in," said Hays, giving at the same time the order to admit him.

Bluxome entered and found Burdue sitting on a stone step. Entering into conversation with him, he carefully marked in his mind the place and its contents, and then walked carelessly about the prison. The only arms he could discover was a rack of muskets standing in the middle of the main hall. These might be dangerous, and they might not; but how ascertain if they were loaded without exciting suspicion? Taking a musket from the rack and turning to the officer in attendance, whom he well knew, he exclaimed in a half playful manner:

"Lambert, you are an old infantry soldier; so am I. Put me through the drill."

"What drill?" asked Lambert.

"Loading and firing."

"All right, sir," replied the officer, complying with the request. Presently Bluxome complained:

"This gun is not well balanced," and putting it back he took from the rack another. And so on divers pretences he examined one after another, and ascertained that none of them were loaded. That was all he wished to know, and he returned to report.

Ryckman determined to make a survey on his own account. Going up to the jail, he found ready admittance. The triumphant authorities were most affable. The vigilance organization was a fine appendage to a police office. "We don't want any trouble

with you," said the smiling jailer as he admitted him.

"There are many who entertain the same sentiment," was the caustic reply.

Ryckman examined the muskets, which were flint-locks, and saw that they were not loaded. He was less diplomatic in his visit than Bluxome had been. He was absolutely fearless, and went more directly for his object than some who were, indeed, no more circumspect than he. The jailer spoke truly. No one coveted trouble with Mr Ryckman.

The visitor asked to be shown the captured prisoners. Whittaker was in his cell, and on seeing who it was he came to the grating and said:

"I hope you are not sorry to see me here, Mr Ryckman?"

"Sir," was the reply, "you were arrested through the agency of the people; you were tried and convicted by the people; you escaped, but you will as surely be executed by the people as you now live. Entertain no hope otherwise. Be ready. No power on earth shall save you."

This utterance can hardly be commended as discreet. Ryckman then returned to the Committee rooms and busied himself in preparing for the intended undertaking for Sunday.

At the rendezvous on Sunday morning only one out of the thirty was absent. The twenty-nine were divided into three parties, one of thirteen and the others of eight, and each placed under a captain. G. W. White commanded the first, and Mr Calhoun and Oscar Smith the other two. The movement was under the immediate orders of J. W. Cartwright.

Over a portion of the prison, at the time, there was no roof, and from a certain point on Telegraph Hill could plainly be seen all that occurred in the main room. One Higgins was stationed at this point with instructions to open wide his arms the moment service was over.

Meanwhile one party had taken its stand at the

front door of the prison, and of the others, one at the back door, and one in the area between the outer wall and main building, where they could see Higgins. The signal being given, every man made ready. Immediately the front door was opened, and as the worshippers from without were making their exit, the party there stationed crowded in. At this juncture a crash was heard at the back door, which fell with loud noise beneath the blows of a sledge-hammer. In another moment two divisions were together, while the third rushed to the front and acted as guard. The criminals, who under guard had been attending service, instinctively scattered to their cells like rats before their feline enemy. The regular jail guard were at their station on the top of the building, and during the seizure they were covered by a large pistol in the hand of James B. Huie, one of the twenty-nine. Whittaker was taken by Bluxome just as he entered his cell. This was about a quarter past two. At the same instant, by different parties, McKenzie and the officers were seized. There was some scuffling between the officers and the vigilants, and a few harmless shots were fired. Whittaker and McKenzie struggled hard, but were quickly overcome. The two criminals were bound, and hurried to a carriage in waiting. The other inmates of the prison stood trembling with fear, without offering the least resistance, not knowing when their own turn might come.

No sooner were the two prisoners thrust into the carriage which stood in readiness round the corner than the driver plied his whip, and the horses dashed off at the top of their speed, up Broadway to Stockton street, thence to Washington and through Dupont, Sacramento, Montgomery, and California streets, to the Committee rooms on Battery street. Not a moment was lost. Over the doors of the second story of the building projected two beams, fastened to which were blocks roved with ropes noosed at one end. With their coats removed and arms pinioned to their

sides, the ropes were adjusted round their necks. The next instant the two prisoners were simultaneously jerked from their feet and hoisted in air until their heads touched the beams above; then they were lowered and again hoisted until life was extinct.

Nothing of the plan was known to any except the executive committee and those actually engaged in it. Even the preliminary arrangements, as we have seen, were made outside of the Committee rooms. Less than three quarters of an hour was occupied from the time of the attack upon the jail till the unfortunate men were swinging from the beams of the Vigilance Committee building. Following is the return of order of arrest.

"EXECUTIVE COMMITTEE OF VIGILANCE COMMITTEE,
"SAN FRANCISCO, August 24, 1851.

"Agreeable to your orders above, I detailed thirty (30) men, who proceeded in three divisions, under the respective orders of Col. G. W. White, Capt. Calhoun, and Mr Oscar Smith, and in the short space of five minutes from the first charge the prisoners above named were on their way to your head-quarters.

"Respectfully,

"J. W. CARTWRIGHT."

While the vehicle containing the prisoners and their guard was dashing through the streets the Monumental bell struck the well known signal, but before many members in answer to its summons could reach the Committee rooms the deed was done. The executive committee were becoming proficient in the business; all had been preconcerted, all was carried out without faltering and without confusion. The execution over, the people were addressed by two members, and the action of the Committee received their unqualified approval. At sunset the bodies were delivered to the coroner, who held an inquest at the house of the California Engine Company.

The extraordinary incidents of the day, and of the occasion, were never paralleled in any country. Glance once more at them: A law-loving but crime-ridden people rise and do what the law fails to accomplish,

namely, seize and strangle villainy, and break up a nest of crime. Their work not quite finished, inept law, following its jealous necessity, snatches two of their caught criminals, in order to punish them in its own way. The people recover and execute them. Where else in history shall we find this play of battledoor and shuttlecock between law, justice, and the people?

From their quiet devotions under the auspices of law to that eternity of which they prayed, these murderers found their swift and natural way. There were many incidents worthy of mention in this connection, but I can give place to but two or three.

When the prisoners were bound, with their hands behind and the ropes round their necks, and all was ready for the execution, Whittaker said:

"I want to see Mr Ryckman."

"What is it, Whittaker?" said Ryckman, stepping up to him.

"You have never deceived me, and I will tell you something. You are a doomed man. You will be assassinated in less than ninety days. Reckless and determined men have sworn it."

"I am not afraid of them," said Ryckman. "All the desperadoes this side of purgatory can never intimidate me in the discharge of my duty."

While the execution was taking place the mayor, Brenham, was noticed sitting quietly on a pile of lumber on the opposite side of the street from the Committee rooms, regarding the proceedings apparently as an idle spectator.

After the men had been hanging about fifteen minutes Gallagher presented himself, blustering for the bodies.

"What do you want?" asked Ryckman, stepping forward.

"I am coroner of the city of San Francisco, and I want these men!"

"You can't have them."

"If you don't give them to me I will cut them down!"

"Raise your hand to touch those bodies and you are a dead man. Come, be quiet and take a drink—that or the contents of this pistol, as you like."

The Irishman calmed himself and 'smiled.'

"When can I have them?" he asked, now wholly resigned.

"When the sun goes down," said Ryckman.

The day after the execution Hays, the sheriff, meeting Ryckman, said:

"I am mortified to death. All my hopes of reëlection are destroyed."

"Colonel, don't be foolish," Ryckman replied. "Seek the election. You have acquitted yourself fully. Failure sometimes is more successful than success."

CHAPTER XXIV.

MINOR RASCALITIES.

They demen gladly to the badder end.
Chaucer.

THE revelations of Stuart gave many cause for uneasiness. In the published confession some of the names given by him were omitted and blanks inserted, and many an undetected rascal in reading that report saw in fancy the letters of his own name flaming blood-red in blank spaces. Knowing, moreover, that for every blank the Committee had the true and fitting appellation, some who before regarded themselves as fixed and settled members of the commonwealth suddenly arrived at the conclusion that their health required a change of air.

More than any other one person T. Belcher Kay sat uneasily as he read that confession. He is said to have been the instigator of the great fire of the 22d of June. His assistants in that affair were Jimmy-from-Town, Dutchy Betts, Adams, and Whittaker. Kay promised to have the plunder properly divided; they secured some eight thousand dollars in all, including three cases of valuables sent to a Sacramento Jew, who did business on the corner of J and Second streets. Kay was disgusted with the present turn of affairs. Things were coming to a pretty pass when, in addition to the trouble caused him by the people, every other man of them had turned thief-hunter; when a comrade would not suffer himself to be hanged in quiet, but must first tell all he knew and jeopardize the lives of his former companions. Whoever heard

of such a state of things, when one could not fire a few buildings without causing such a commotion! It was not fair. Why could not merchants and mechanics mind their own business? What did they know about law? Incendiarism, robbery, and murder were matters resting entirely between gentlemen of the profession and the courts, between which classes lay the net-work of the law, both manipulating it as best they might according to their respective interests. Now, for the men of merchandise to interfere and raise such a hubbub was infamous. The country was becoming unfit for a respectable scoundrel to live in. Everything seemed turning against him. The people were patrolling and associates confessing. There were yet the courts, however. After all, the law had treated him well enough, and legal technicalities were about the safest covert for hunted rascality; there money was money. He was friendless now; there his stolen gold dust would buy him a friend into whose safe ear he could pour his secrets, tell all his guilt, and secure him able and active sympathy; for so kind law provided. Money would likewise buy him witnesses who would swear to anything his legal accomplice might indicate. Money made warm the cold cell, soft the hard couch, drove hunger and thirst to hide themselves; it opened prison doors, and made even judges benignant. Law was the only safe refuge for the rascal; to the law he would go, and that while he was able.

At the time of Stuart's arrest Mr Belcher Kay was in San Francisco, but urgent calls of conscience took him to Sacramento. The outlook there was not comforting. Everywhere he found too many people earnestly intent on not minding their own business. A Sacramento July was hot and withering, a San Francisco July was cold and shivering; indeed, the climate of California he believed to be changing. The fact is, Mr Belcher Kay was unhappy. The vigilance men were after him, and he knew it. There were among them those whom the June fire, a most un-

fortunate kindling at this juncture, had for the third or fourth time stripped of every dollar; and he knew that, too.

No time was to be lost. To flee the country was impossible; every avenue of escape was closely watched. There was but one refuge left, and that had never failed him—his benign mother, the desperado's *alma mater*, the law.

Assuming the costume of an elderly female, he dodged a detachment of the San Francisco Committee sent up to arrest him, cut across the country to Stockton, thence to San José, and up to San Francisco. Here, on the 16th day of July, he drove to court in a buggy, still disguised as an old woman, that he might swear out a writ of *habeas corpus* for his own body before some one else should snatch it from him.

Mr T. Belcher Kay did not, however, arrive at court a stranger. Before leaving San Francisco he had taken steps to legally secure himself to himself. On the 11th of July, the day of Stuart's execution, one William Thompson Jr. appeared before Hugh C. Murray, of inglorious fame, then chief justice of the superior court of San Francisco, and swore, to the best of his knowledge and belief, that T. Belcher Kay was unlawfully restrained of his liberty and imprisoned by a great number of persons styling themselves the Vigilance Committee, and that the said persons were endeavoring to conceal the said T. Belcher Kay in order that he might not be reached by legal process until they could strangle him; whereupon the said court, bewailing such a fate for a free city-burner, directed Sheriff Hays to seize the body of the said Kay whenever and wherever it might be found, and to hold it safely for himself and for the law. Now the truth of the matter is that the Vigilance Committee had never had the body of Mr Kay in their possession, else the affidavit of Mr Thompson would have been useless.

From Sacramento the 13th of July Mr Kay wrote the San Francisco Vigilance Committee as follows:

"Being informed that certain grave charges have been preferred against me by the man Stuart, and that you wish to try me on said charges, I now state to you that I am ready and willing to meet the same, and will voluntarily deliver myself up the moment you may send for me, trusting to your honor for a fair and impartial trial, and beg of you to secure for me as counsel Geary Austin, Esq. "Very respectfully,

"T. B. KAY."

How Mr Kay kept this promise we have already seen.

Commenting on the action of the court in Kay's case, the *Herald* of July 24th says:

"When a writ of *habeas corpus* was sued out in the case of William Walker, an honest citizen, whose sole crime was a conscientious discharge of his duty, the applicant was knocked about from court to court like a shuttlecock, and seven days elapsed before he was restored to his liberty, while here in the case of a man charged with felony, known to have been the companion of thieves and burglars, and suspected of being their confederate, the portals of justice open wide to receive him even before he knocks for admission, and a process issues to restore him to liberty before he is known to be in durance. All according to law, perhaps; but if it be so, then that law acts directly for the oppression of the honest man and the immunity of the knave. We cannot believe the law was ever intended for any such purpose. We repeat, then, that here is a case demonstrating the necessity of a Vigilance Committee and disproving all the cant indulged in about the sacredness of the courts. These institutions are formed for the purpose of dispensing justice, and if they do not answer that purpose they are worse than useless."

Mr Thompson was indicted by the grand jury for perjury. Mr Belcher Kay was discharged by the court on the 1st of August, and immediately took passage for the east.

Other minor matters claim attention. One Francisco Guerrero, on the 12th of July, was murdered at the Mission. The coroner's jury, whose investigation was made in the presence of the Vigilance Committee, named Francis Le Bras as the murderer. The Committee, from the evidence, were not fully satisfied that Le Bras was guilty of the crime; nevertheless they retained him in their custody.

The Committee continued to take testimony for and against the prisoner all that day and part of the next, without being able to convict. Meanwhile the sheriff, with a *posse comitatus* and writ of arrest, knocked at the door of the Vigilance Committee rooms and demanded the person of Francis Le Bras. The sheriff was politely informed that after the Committee had acted upon the case they would determine what disposition to make of the prisoner. At the same time the sub-committee, to whom the case had been referred, recommended that no notice should be taken of the writ, and if it be thought advisable to submit the case for trial at court by the authorities, to do so of their own free will, and meanwhile to keep in custody the prisoner. The executive committee concluded finally to surrender the prisoner to the civil authorities, taking from the sheriff a receipt for the delivery of his person. Upon this action the *Herald* observes:

"The Committee's course in this matter sufficiently refutes the charges that have been made against them that they were anxious to assume supreme powers and seize every opportunity of exercising judicial functions. As the community will perceive, they have heretofore confined their action exclusively to cases where the guilt of the offenders was established beyond the possibility of cavil or doubt; and so strictly have they adhered to this course that, whatever other charges have been urged against them by their opponents, none have been so reckless as to assert that they have ever punished an innocent man."

Herewith I give copies of receipts for prisoners delivered by the Vigilance Committee of their own free and deliberate will to the officers of the law.

"SAN FRANCISCO, July 23, 1851.

"Received of the Committee of Vigilance of the city of San Francisco the following prisoners, handed over to the sheriff of said county by order of said Committee: James Burns, *alias* Jimmy-from-Town; Ainsworth, *alias* Roundhead.

"The above prisoners being sound in body and health.

"Received the above prisoners from J. L. Van Bokkelen, of the Vigilance Committee, Wednesday night, July 23d.

"JOHN C. HAYS, *Sheriff.*
"WM. LAMBERT, *Keeper.*

"Received of the Committee of Vigilance a prisoner named George Arthur, accused of house-breaking.

"The above prisoner has been received from J. L. Van Bokkelen, of Committee, Wednesday night, July 23, 1851.

"SAM'L C. HARDING,
"*Captain Third District Police Station.*"

Jimmy-from-Town gave the Committee quite a little chase, but was arrested, six days after Stuart's execution, near Marysville. His true name was James Burns. He was convicted of various crimes, and sentenced to ten years' imprisonment. Jimmy Roundhead was likewise caught by the Vigilance Committee and presented to the sheriff.

Again the tolling of the Monumental's bell announced the sitting of the Committee in solemn conclave. At ten o'clock in the morning of the 6th of August, 1851, hundreds were seen rushing through the streets toward the rooms of the Committee on Battery street.

"What's up?" asked everybody of everybody.

"Don't know, unless Adams is to be tucked up." Adams, a noted burglar and boon companion of Stuart, was found in a tent on the American River. He was arrested by the emissaries of the Vigilance Committee and brought to the San Francisco head-quarters the 19th of July. But Adams was not to be 'tucked up.' The Committee were about to perform an act which should mark the nobleness of their motives, the coolness of their demeanor, and the temperate firmness of their character, more conspicuously than even the hanging of Jenkins and Stuart. One of the fearful ills which should be fastened on society by this unruly organization, predicted by the lovers of the courts and court officials, was an ever increasing thirst for power, which should rise to intoxication and degenerate into licentiousness. Again we see the Committee, who had spent their own time and money in the capture of a notorious criminal, and in gathering the evidence

of his guilt, voluntarily surrender him to the constituted authorities, to be tried and sentenced in accordance with recognized forms of law.

"There they come!" shouted one, as Adams appeared at the entrance between the chief of the vigilant police and a deputy sheriff. They marched toward the county jail, followed by several members of the Committee and a crowd of citizens. The spirit of justice smiled on her ministers that day, and the court was not slow in recognition. The lesson of alacrity had been well inculcated; scarcely was Adams lodged in prison before the judge had him out, tried, and condemned. Even the anti-vigilance organs were satisfied to have the Committee act as a detective police, and signified their willingness that the organization should continue on that basis—suggestions in regard to which the Committee were profoundly indifferent.

Mrs Hogan secreted herself on board of a ship lying in the harbor, but was seized by the Vigilance police and brought to the Committee rooms on the 19th. She was about thirty-five years of age and quite genteel in appearance. Her carriage, one of the finest in the city, stood at the door of the Vigilance Committee rooms on the day of her arrest, but at night the lady did not drive away in it, although there was not at present testimony sufficient for her conviction.

Thieves arrested by citizens at the great June fire were taken, as a matter of course, before the Vigilance Committee. One was publicly whipped and ordered to leave the city. Five thousand dollars reward was offered for the apprehension and conviction before the Committee of any incendiary, and notice to that effect appeared in English, French, Spanish, and German, in the journals of the day.

Dab was arrested one night on board the steamboat *New World, en route* from Sacramento to San Francisco. Dr Kennedy, surgeon of the ship *Johnstone*,

was arrested for stabbing the captain—a system of surgery practised even by some who could not show a diploma.

Samuel Purdy, while candidate for the office of lieutenant-governor, assaulted Mr Robb of the Stockton *Journal* in such a manner as to call forth the severest comments of the press.

The captain of the brig *Hallowell* was taken into custody by the Vigilance Committee on Sunday, the 24th of August, for having caused the death of a boatman, but after examination he was surrendered to the authorities.

Early in July a tent on the Middle Fork of the American River was entered and twenty-three hundred dollars stolen from a trunk. Suspicion pointed to one Hamilton Taft, who, having fled to San Francisco, was arrested at the Branch Hotel by two members of the Vigilance Committee. The prisoner asserted his innocence, but on being searched gold dust and coin were found upon his person, and a portion which he had thrown into a sink answered to a description of that which was lost. The man was then taken to the Committee rooms, where shortly after he confessed the crime. He was sent back, under a strong guard, to be dealt with by the authorities at Auburn.

Arrentrue was indicted by the grand jury for attempt to murder in the mines, and for assisting Watkins to escape jail. Benjamin Lewis, found guilty of arson by the court, was sentenced to two years in the state prison. This was the highest punishment for the offence as the law then stood. Two days after, however, a new statute went into effect which made arson punishable by death. Lewis went happily to prison, rejoicing in the promptitude of trials in California.

Briggs, the 'Sydney duck,' mentioned in Stuart's confession, was reported as being in San Francisco on the 15th of October. All night members of the Committee were on the alert, but the morning dis-

closed the fact that he had left the day previous on the brig *General Cobb*, or the British bark *Francis*, bound for Australia. A committee was appointed to wait upon the collector of the port and obtain the requisite authority to search the two vessels. They pursued the fugitive, pushing out through Golden Gate in the steamer *Firefly*. Boarding the *Cobb*, they ascertained that Briggs was not there. The brig *Francis* was a long way off; the steamer fuel was low, and they were obliged to abandon the chase.

John Goff was informed by the Committee that he must leave the country, and many thought it an unjust sentence; whereupon the Committee caused to appear in the public journals the facts that Goff was a convict, a bad character, and the boon companion of burglars. In his possession was found a conditional pardon, given in Sydney the 1st of May, 1849, by Sir Charles Augustus Fitzroy, governor of New South Wales—the condition being that Mr Goff might go free in any part of the world except Great Britain and Ireland; there his pardon would be forfeited if he presented himself. Mr Goff was obliged to deposit with the Committee a sum of money as a guarantee that he would quit the country by the brig *Veto*, bound for Sydney.

Mr Hetherington, destined to yet higher inglorious fame, was at this time keeping a notorious den at North Beach; being warned to leave, instead of obeying, he applied to the courts for protection. The days of grace expired; two hundred men surrounded his premises, arrested him, and placed him on board a vessel in the harbor, there to await the first departure for Sydney. We shall meet this gentleman again.

A young man named Harrison, son of an honest and highly respected gambler, John Harrison, one of the oldest in New York city, who was ordered by the Committee to depart from these shores, had quite a strange career subsequently. From Julia

Brown, his prostitute mother, he inherited some property. After favoring California with his absence he went to Kansas. Walking along the streets of Leavenworth one day, he boastfully counted on his fingers to a companion eleven men whom he had killed. Suddenly he drew his pistol, exclaiming, "I must have twelve jurymen in hell to try me when I go there!" and fired, shooting a German cobbler at work on the opposite side of the street. He made good his escape. Next we hear of him at the head of twenty-five desperadoes, playing soldier in 1861. Driven from the army for bad conduct, he fled to the Indian Territory, raised a company of half-breeds, and began a series of depredations on both sides of the line. These bold measures were kept up till one day, in a town in Arkansas which he had robbed, he was captured by the citizens, who killed him very dead: first they hanged him; then they decapitated him and placed his head upon a pole.

In the matter of Samuel Gallagher, accused of killing Pollock, the Vigilance Committee declined to act, on the ground that it was not part of their purpose to take cognizance of personal quarrels, but rather to direct their surgery against chronic diseases. Rapine, with its attendant burglaries, incendiarisms, and murders, the Committee made it their more special duty to suppress, leaving to the law private animosities and minor questions of justice.

Strange freaks of human nature were seen at times about this strange tribunal. A negro confessed to having started the late conflagration, and was arrested by the Vigilance Committee. After examination, in which were repeated confessions and denials, he was discharged. At another time a man rushed to the door of the Committee rooms and attempted to gain admission. Stopped by the sergeant-at-arms, he insisted on entering to receive punishment for stealing. He was finally driven away. And yet neither of these

men seemed insane, though they may have been a little bewildered by a bad conscience.

More fearful of vigilant justice than that of the law, some offenders surrendered to the latter and voluntarily confessed secret sins,—instance the case of Alfred Edmondson, who walked into the sheriff's office one day in July and stated that he had shot one McKinley at a ranch thirty miles distant.

A reform was noticed about this time in the proceedings of street encounters. The revolver's click was less often heard, and in its stead the air reverberated with the whizzing of the cowhide. Women played this instrument as well as men; it was less sanguinary than the old way, and more in keeping with the hate of woman, who loves best that method which inflicts the most punishment with the least danger.

On one occasion when Selim Woodward was in the chair and the members in full attendance, the general committee had before them on trial a Mexican boy charged with theft. The evidence was in, conviction clear, and the only remaining question was the kind of punishment. Some were for banishment, some for whipping, and others for something more severe. Mr James Dowes, then as ever a central figure for humor, had already addressed the assembly twice, and wished to speak again, but the rule was rigid that no one should speak more than twice on the same subject or occupy more than five minutes. Dowes induced a friend to secure the floor and then waive in his behalf, and raising his long, lank form high above all around, in that nasal twang and ejaculatory delivery peculiar to him, he said: "Gentlemen, I do not wish to fatigue you; I beg merely to say that it takes no longer to hang a man than to whip one." The manner of it was more than the matter; the Committee roared, and immediately released the boy with a simple reprimand.

Mr Dows, who was a fearless and vehemently uncompromising member of both Vigilance Committees, during the winter of 1850–1 kept a large liquor store on Montgomery street, where Montgomery Block now stands. Those were thirsty days, and thither flocked men of every caste and color to drink. Side by side drank mechanics and murderers, honest men and thieves, the latter looking and listening as they quaffed their poison. One night, when Mr Dows' safe contained ten thousand dollars' worth of gold dust, the burglars opened and emptied it; and next morning, upon the spot, mingling with others whom curiosity had drawn thither, were the thieves themselves, quietly taking their beverage and complacently regarding the havoc they had made. Jimmy-from-Town was chief of this plot, and subsequently Mr Dows had the pleasure of sitting in judgment upon him.

As a matter of course, it was to be expected that our celestial brother, John, should find occasion to utilize this as well as other American institutions. Ah Sing and Lip Scom for some reason desired that Ah Lo and Ah Hone, with two women of the neither wife nor maid species, should be sent back to China. They were bad Chinamen, said the almond-eyed, they struck from the shoulder, kept a bad house, and belonged to the law and order party. All which was not difficult of belief; but amongst millions of century-smoked souls how distinguish one from the other? What is the difference between a good Chinaman and a bad Chinaman?

Nevertheless, as the first two named spoke first their accusation—which if reversed would have been very much the same, either party answering equally well for plaintiff or defendant—as they expressed an anxiety to assist in purging the city in the latest fashion, and by a method other than that of the standing Jackson-street emetic; and above all, as they proposed to pay all the expenses of custody and

passage back to China, the dread tribunal granted their prayer. Indeed, they might empty every suburban sink-hole in California on the same terms if they liked.

But seriously, testimony of a sufficiently respectable character to convict these flowery offenders of arson, of having drugged and robbed sailors, was offered the Committee, and they were compelled to depart. At the same time charges were preferred by their countrymen against Ah Loh, Sin Co, and Ah Oeh; but this the Committee voted a conspiracy, and made the complainants understand that the order of exile in its application was neither universal nor permanent.

CHAPTER XXV.

THE INQUISITORS IN COUNCIL.

Though the mills of God grind slowly, yet they grind exceeding small;
Though with patience he stands waiting, with exactness grinds he all.
Friedrich Von Logan.

We have seen that July was a busy month, and the accumulated documents show that the month of August was not an idle one. Aside from the stirring affairs connected with Whittaker and McKenzie there were a score or more of the minor members of the now scattered fraternity to be looked after, correspondence with country Committees had to be kept up, the significance of legal technicalities studied, trials held, witnesses examined, funds raised, and a hundred other like duties performed. It is wonderful to what a state of perfection the new machinery was brought within the first three months of its running. Wonderful it is what men of sense and skill can do when possessed of that power which secures them absolute freedom of thought and action. That political libertinism did not follow this deluge of liberty is the strongest proof of the even balance of their minds and the integrity of the hearts of those who achieved this great moral victory.

At a general meeting on the 2d of August a committee was appointed to report on the use and abuse of the writ of *habeas corpus*. Devised in the hour of oppression, observed the committee, as a safeguard of liberty it is one of the most precious rights of man. The intention of the writ is to relieve from unjust confinement a person accused but not

convicted of crime, on condition that he offer sufficient security to appear and answer to the charge when called for. The question in this connection is, May it ever be disregarded? The weakness of the *habeas corpus* lies in the fact that to insure its rapid action the right of granting it must be vested in many officers. False testimony or an oath made on erroneous information may in an instant wrest from the hand of justice the criminal whom it has required much labor and expense to secure, and thus this greatest of civil blessings may in effect prove baneful. It is against the abuse of the *habeas corpus* that the people are called to raise their voice. A peculiar condition of society may render the unrestrained use of the writ dangerous to the state. Policy sometimes requires its suspension—instance the wars of the Jacobins, England during the reign of George I. and at various epochs. Should the Vigilance Committee deem it expedient to resist the writ upon occasions, it has the sanction of precedent. The existence of this Committee, formed as it is of the best material of society, is proof sufficient of its necessity. The writ of *habeas corpus*, among other mechanisms of the law, has certainly been employed for shielding iniquity, and it remains either for the Committee of Vigilance to degenerate into a mere detective police, or to free itself from the fear of resisting the writ when they see it abused. They cannot afford to catch criminals for *habeas corpus*, or any other law trick, to liberate. Such, and more of the same tenor, the gentlemen appointed reported to the Committee; accounting it the right of the Committee to regulate the writ of *habeas corpus*, or anything else affecting the welfare of the commonwealth.

Prompted by their gratitude to those who had restored safety to the city, the ladies of San Francisco presented to the Committee of Vigilance a banner of blue silk, emblazoned with a border of oak, olive, and

fig leaves, emblematic of strength, peace, and plenty; inscribed on one side were the words, in golden characters:

"The Vigilance Committee of the City of San Francisco:
Instituted June 8, 1851,
For the Protection of the Lives and Property
of the Citizens and Residents of the
City of San Francisco.
Const., Art. I."

And on the reverse:

"Presented to the Vigilance Committee
of the City of San Francisco
By the Ladies of Trinity Parish, as a
Testimonial of their Approbation.

'DO RIGHT AND FEAR NOT!'

August 9, 1851."

Estimating the compliment by its cost, which was nearly one thousand dollars, we may believe that the gift was from the heart. The banner was presented by Benjamin S. Brooks, in a neat and pertinent speech, which concluded as follows:

"This gift comes with peculiar appropriateness from the ladies. At the time that this society was organized our situation was very different from what it is at present. It is true that the strong man, with loaded revolvers in his pocket and bowie-knife concealed in his breast, might defy the attacks of the Sydney convict, and the refuse of all the world which infested our city, but it was different with the weak and defenceless woman. She who sits patiently at home waiting for her husband's return from his business, in every noise about the house she fears the burglar and the robber. If she leaves the house, a thousand fears beset her for the safety of her children; if the husband is delayed beyond his usual time, a thousand fears, a thousand horrid visions of murder, and outrage, and violence come upon her heart, and fill her with anguish and dismay. Such was San Francisco; but now we live in peace. We sit beneath our vine and fig tree happy and secure, and woman's heart feels, and this her gift expresses, her gratitude. Gentlemen, accept this gift, and all your actions, in all the assaults which may be made upon you by those who hate, or those who fear, or those who doubt, remember the motto which it bears, 'Do right and fear not,' for in the end blessings will ever reward you for your laborious vigilance for the protection of our lives and property."

Committeeman No. 404, at the general meeting of August 9th, offered the following resolution, which was adopted:

"WHEREAS, There is a United States law inflicting a fine of one thousand dollars upon captains of vessels for each convict that they bring from the penal colonies of Great Britain to the United States, one half of which fine is awarded the informer; therefore,

"*Resolved*, That the executive committee be directed to lodge information forthwith against the captains now in port who have been guilty of this offence, and to prosecute the matter, and that the proceeds be appropriated to the objects of this Committee."

A letter was received from Messrs Flint, Peabody, and Company, inclosing one hundred dollars. The gift was accompanied by a letter couched in the following terms:

"Please find herewith check for one hundred dollars, which we ask you to accept as a small token of our appreciation of your efforts to punish and suppress crime in our midst. We have sympathized with you since your first organization. We appreciate your labors in behalf of this city; and knowing that you have been at much expense, we deem it our duty to bear some share of the same. We trust that in the present crisis your action will be characterized by your usual prudence and firmness, and that you will not entertain a thought of discontinuing your efforts in so noble a cause."

During the month of September there was a slight falling off in the volume of business transacted; still there was sufficient work to keep up the enthusiasm of the association. Many offenders were captured and delivered to the sheriff. Between the Committee and the authorities general good-fellowship now prevailed.

The latter had vindicated the ruffled dignity of the law in their futile attempts to baffle the will of the people; while the former, having achieved in the accomplishment of its purposes a proud success, with calm complacency held steady the reins of government, bidding the law take heart and have no fear as to the ultimate result.

The following report of the executive committee to

the general committee exhibits the status and sentiment of the association at this time:

"EXECUTIVE CHAMBER, September 6, 1851.

"*To the gentlemen composing the Committee of Vigilance of San Francisco:*

"The executive committee of your body have labored arduously to accomplish the business committed to them, in the discharge of which they have had but a single eye to the safety and prosperity of their fellows. It is with much sincere satisfaction that they are enabled to say that the reports before you embrace action in relation to every prisoner in their charge, and it now only remains for your sub-committee to see the prisoners depart and not keep them in duress.

"We also have heartfelt pleasure in communicating the fact that many of the prisoners not only are enabled to pay their own passages, but are willing to depart in perfect satisfaction with the acts of the Committee; your committee have rendered them every facility that humanity and prudence could dictate.

"Amongst the cases before us were two of husband and wife; those two cases demanded our attention; your committee have separated the parties for their own good, and by the separation may be the means of saving much anguish. Our labors are now completed, and so far peace and security have attended our efforts for the public good; we earnestly hope that the blessing of Almighty God may rest upon us; may the cessation of our labors be no cause on the part of the vicious to renew their course of life to the injury of the people. We trust that those in power at this time, and those who shall succeed them by reason of the late election, may so learn wisdom that in the exercise of their representative duties they may ease the weight from the shoulders of their constituents, and thereby honor their common country and preserve their institutions unsullied. It will now become you to adopt some action for the future, to so base the present institution that it may silently be a terror to all evil-doers and a rewarder of all that do well; that it may be the guardian spirit of the land. With feeling of high respect and esteem,

"Believe me, your obedient servant and well-wisher,

"S. PAYRAN."

Eighteen members were present at the meeting of September 27th, and thirteen the 30th of September. Nine members constituted a quorum from this date. At the former of these meetings Selim E. Woodworth was elected first vice-president and G. W. Ryckman second vice-president. At the latter meeting Mr Ryckman stated that there was then a Mexican in the city who had committed seven murders, one of them within a week, and moved that he should be arrested. After due discussion it was decided that under their

late reorganization the executive committee were not authorized to make arrests. It had been the hope of the Committee that they would be called upon to make no more arrests, but this was not to be. In any event the sentiment was worthy of them, showing as it did their honesty, good sense, and manliness. They had no desire to clog the wheels of government or throw obstacles in the way of due administration of law. Though possessed of ample power they would use it only upon principle; they would not even permit themselves to stand before their fellows and before the world a palpable and permanently organized oligarchy. Amidst the many broils and civil wars which history loves to paint, almost all of which are purely for personal or party aggrandizement, it is refreshing to see able and honest men acting from motives of unquestioned purity.

Subsequently, modified power to make arrests was again given the executive committee by the general committee, but no important action should be taken unless formally sanctioned by the general committee.

New by-laws were submitted and approved the 27th of September, organizing the body anew with a president, two vice-presidents, a secretary, treasurer, and sergeant-at-arms, all of whom should be elected for a term of six months. Stated meetings were to be held every Wednesday. On the 2d of October a salary of one hundred and fifty dollars a month was voted the sergeant-at-arms, whose duties consisted in keeping the rooms and property of the Committee, serving notices, and exercising supervision over the prisoners, should there be any. The following meeting, held the 8th of October, voted the secretary a salary of one hundred dollars a month.

These by-laws read as follows:

"There shall be elected monthly a president, secretary, and treasurer of the Committee of Vigilance. There shall be appointed by the Committee of Vigilance a sergeant-at-arms, a marshal, or chief of police, and five assistant marshals; also an executive committee of twenty members, the president of

the Vigilance Committee acting as *ex officio* president of the executive committee. The remainder of the Committee of Vigilance shall be divided into squads or companies of twenty men each; each squad shall elect its own captain. The object of this subdivision is to make members better acquainted one with the other, and each captain with the whole of his particular company. At the present time there will consequently be about thirty captains. The companies shall be numbered from one to thirty. It will be the duty of each captain to see that the men under him attend properly to guard and other duties assigned them. That they pay their fines and dues when delinquent; and he shall report them for bad or suspicious conduct, as well as for neglect of duty, when necessary. Two squads or companies will furnish the exact number of men requisite for the guard during the twenty-four hours; and they shall be ordered to do duty by the sergeant-at-arms through their captains in regular rotation—companies one and two one day, three and four the next, and so on. From the companies not on duty the chief of police or his assistants may at all times select such men as he may require for police duty, giving his orders to such men always through the captains of the respective companies; as, for example: 'Captain of No. 30, I require from your company by twelve o'clock three men, who shall proceed'— and so forth. After the chief of police or any of his assistants shall have taken or received any prisoners, he or they shall turn them over to the sergeant-at-arms, provided he consider that the quarters under charge of said sergeant are sufficiently secure to keep them safely; but should he, the chief, think proper for the better keeping of said prisoners to remove them to other quarters than those in the building used by the Committee of Vigilance, he may have the power to do so. It is to be perfectly understood that until they are so turned over by the chief or his assistants he, the said chief, be responsible for them; but after being placed in the hands of the sergeant, then he, the sergeant, shall become responsible for the said prisoners, and the chief and his assistants shall have no longer any authority to act in the disposition of said prisoners, unless notified to do so by an order from the executive committee. Should it happen, however, that during the absence of a quorum of said executive committee the sergeant-at-arms might think it necessary to send prisoners forth from the building to more secure quarters, then he may have the power to place such prisoners at such time in the hands of the chief or his assistants, directing them to carry said prisoners to such quarters as he, the chief, may think safe; and thereupon the authority and power of said sergeant-at-arms over said prisoner or prisoners shall cease, and the chief or his assistants shall become responsible for said prisoners so removed. It shall be the duty of the sergeant-at-arms to take all care and charge of the prisoners in the building occupied by the Vigilance Committee; to take proper means to prevent the admission of any but members, witnesses, or prisoners into said building; also to see that the said building is properly cleaned and lighted, and to do such other duty in the way of sending notices and advertisements as may be ordered by the executive committee or by note of the Committee of Vigilance. He shall, moreover, have the power, whenever in his judgment necessary, to prevent all communication between members of the Committee of Vigilance and such prisoners as are in his charge, excepting the members

of the executive committee, whose orders at all times, when emanating from the chairman of said committee, he shall obey, but not otherwise unless signed by a quorum consisting of five of said executive committee. It is of course understood that any order issuing from the Committee of Vigilance by vote of said Committee shall be obeyed by the sergeant. The duty of the chief of police and assistants shall be to detail all *posses* for the purposes of arresting prisoners or guarding them when out of the building. They shall have the power of making such detail at any time when so ordered by the executive committee or by general vote of the Committee of Vigilance; and all orders given by said chief and assistants are to be implicitly obeyed by the *posses* so detailed. If at any time, while the executive committee or a quorum of said committee are absent, it should be considered necessary for the safety of prisoners, or for the purpose of carrying out any plan for the arrest of prisoners, to detain all members in the room until said safety is insured or said prisoners arrested, then the said chief or his assistants, and also the sergeant-at-arms, shall have the power to close the doors so as to prevent the egress of any member of the Committee of Vigilance.

"At any time that any prisoner is brought in during the absence of a quorum of the executive committee, it shall be the duty of the sergeant-at-arms to notify a quorum of said committee of said fact, so that they may immediately go into an examination of the charges against said prisoner. All orders issuing from the executive committee, whether to the sergeant or to the chief of police, or to other guards, shall be returned endorsed with the report of the parties to whom said order or orders were issued. The sergeant-at-arms and chief of police are to receive their orders from the executive committee, or by vote of the general committee, and are to be particularly under the surveillance of said executive committee. During the absence of the marshal and his assistants their authority with respect to detailing guards for any immediate duty or the execution of any order from the executive committee shall devolve upon the sergeant-at-arms. The chief of police shall be allowed ingress and communication with the prisoners."

A committee of five was appointed by the executive committee at their meeting of October 22d to act as a judiciary committee, whose duty it was made "to inquire into the acts of the various judges on our benches."

Jesse Seligman claims thirty dollars for a six-inch Colt's revolver, and Wm. C. Graham twenty dollars for a five-inch revolver, the first lost in the arrest of John Kelly at the Mission, and the other wrenched from the owner's hand during the Whittaker and McKenzie *melee*. The claims were allowed and paid.

On the 24th of September the executive committee in secret session appointed a committee of four to wait

upon the French consul and the collector of the port, and from them obtain information concerning a French ship said to be on her way hither with five hundred desperadoes.

The collector, T. Butler King, expressed his entire approval of the doings of the Committee, and promised his hearty coöperation. M. Dillon, the French consul, was likewise gracious, but he was sure the report must be false. He said:

"The government of France would not sanction the shipment hither of any of its convicted felons. Such a course has ever been foreign to its purpose. Under the existing constitution of the republic the government could not take such action without special legislation, of which there has been none."

The consul stated further that on quitting France the name and occupation of every emigrant was registered. He called attention to the general good character of the French population in California.

The committee then waited upon Messrs Marziou et Compagnie, agents for the French emigrant vessels, which were to bring hither five thousand Frenchmen during this year. These gentlemen assured the committee that the passengers by their vessels would be a valuable acquisition to the country, being composed mostly of mechanics, agriculturists, and honest laborers. They promised further to instruct their agents in France to examine emigrants and permit none of bad character to take passage on their ships.

All this looked very fair upon the surface, but it hardly tallied with the evidence of John L. Hodge, United States consul at Marseilles, who writes, April 28, 1851:

"In regard to passengers, a great many are of the very worst class of desperadoes in Europe. I have reason to believe some are sent at the expense of the government. I should recommend your city authorities to impose a heavy tax on all passengers from Europe, and to suffer none to land who have not regular passports from their respective governments, with the *visé* of the United States consul; it may be given gratis. If you permit all to land coming from Europe, your country will be filled by a worse than Italian banditti."

A special meeting of the executive committee was called the 11th of November in consequence of the stabbing of one McLean by Antonio Gonzalez in the Mississippi House on Long Wharf. Gonzalez had been arrested by the Committee, but as it was a quarrel in which the plea of self-defence would be strongly urged it was decided to be a case for the courts rather than for the Committee. Accordingly Gonzalez was handed over to the city marshal.

There was a special meeting of the executive committee November 25th to examine a charge made by Joseph W. Gregory against one Sylvester, of Sacramento street, of having sent him a shipment of bogus gold dust from New York. The Committee ordered the arrest of Sylvester.

The meeting of December 10th ordered the city to be districted, and collectors sent among the citizens to gather funds for the liquidation of accrued indebtedness. A committee was appointed at the same time to prepare a suitable certificate of membership, that each member by paying for his certificate might contribute to the treasury of the society. On the next page is a *fac-simile* of the certificate.

The following, from the *Alta California* of the 22d of December, though somewhat ribald in tone, displays the state of feeling at this time of the ultra-vigilance party—I do not mean the executive, the real power of the party—heated as it was by the after-slurs of law and court officials, and their organs, to whom the Committee were ever most lenient and magnanimous:

"'The world is given to lying,' is a trite adage, if not a true one. And of all the parties who can most justly repeat the saying, the Vigilance Committee and the press of San Francisco bear away the palm. The gentlemen of the Committee have been traduced and vilified as men never were before; their motives have been misrepresented, their acts condemned as damning crimes, and all those who have countenanced and abetted them have been denounced as cowards or base panderers to depraved appetites for blood for the sake of pecuniary gain. Nor have these attacks been confined to any particular time and place. Such newspapers as had the impudence have given the slanders publicity upon the spot, while craven and coward souls who

Committee of Vigilance.
Fiat justicia ruat Cœlum.
This is to certify that
Mr _____ is a member of the
COMMITTEE of VIGILANCE of the CITY of SAN FRANCISCO.
Organized 9th June, 1851.
For the mutual protection of life & property, rendered insecure by the general inefficiency of the laws and their mal-administration.
San Francisco
1852
Secretary
President

dare not open their envenomed lips here have vented their malice through the columns of Atlantic sheets, in order, like dastards as they are, to disperse the poison of their petty hate where it might do its work of evil without the fear of contradiction and without that danger of public exposure which should brand them with the infamous title of liar. These palpable libels, these bitter outpourings of hate, have been uttered in loud and confident tones in bar-rooms and other places of public resort; and even the sanctity of our courts—those courts for which these immaculate assailers profess so much respect and regard—has been violated by the distempered ravings and scandalous asseverations of men learned in the law. It is pleasurable, though, to find that the Vigilance Committee has outlived this storm of malicious invective. Nay, more, it is a proud satisfaction to know that the good for which they strove with such unusual and deplorable means has been accomplished. Its effects are everywhere visible in the confident and successful progress which our citizens are daily making, and in the decrease of crime and consequent increase of security which our political condition evinces. These facts are broad, plain, and undeniable here, and the Committee are therefore generous enough to allow these slanderers to discharge their volley of vile missiles as they slink away into congenial and deserved obscurity. Well do we recollect the horrible predictions which were uttered with reference to the Committee. The heavens were hung with black by the disinterested votaries of law and order; tears of purest patriotism rained from their unstanched eyes as they beheld the future ruin of their country; their prophetic souls were torn with indignation at the enormities which the bloodthirsty Committee perpetrated, and their sensitive hearts were wrung with agony at the inherent sinfulness of man! How vain, how foolish, how weak were they all! Their gloomiest pictures have been proved but the silly creations of a childish brain, their stories of hobgoblins have turned out but nursery tales, and their vaunted and pretentious predictions of ruin have shown themselves nothing more than the fantastic structures of a moody, misanthropic, and maudlin imagination! But we will not exult over a fallen enemy.

"It is time, high time, that this wholesale denunciation of the press should be ended. Miserable pettifoggers, penny-a-liners, and subscribers to slanderous affidavits should be told that they will not be permitted to pursue such practices with impunity. The public should understand that such assaults upon the press are undeserved and uncalled for. Why should that portion of a community whose fortune it is to be the conductors of the press be thus overwhelmed on every occasion with charges of corruption and improper motives? Are they not men of as much virtue, firmness, talent, and honesty as any other class? Will they not compare favorably with any other section of a community, in all the characteristics and qualities which constitute the reputable and good citizen? And yet every pitiful dabster who can flourish a pen thinks he has a sort of right divine to malign, assail, and bespatter us with all the slime which a filthy imagination can create at the dictation of a wicked heart. We cannot, and we will not, bear it. We owe it to our position and to our self-respect that such vilifiers should be placed in their true light before the public; and we mean to do it for them."

The school-master was early abroad, as the following communication shows, and with his disciples he did not hesitate to illumine the minds of men and explain to the Committee themselves the nature of the strange work in which they were engaged:

"*To the President and Members of the Executive Committee of the Vigilance Committee of San Francisco:*

"GENTLEMEN:—To-morrow evening (Wednesday) I propose delivering a lecture on the 'Anatomy of Crime,' illustrated by the skulls of Jenkins, Stuart, McKenzie, and Whittaker.

"Should you feel interested in the physiology and philosophy of the causes of mental action which prompted these men to pursue an evil course in life, I will be most happy for you to accept an invitation, which I now tender you, to form part of my audience.

"Yours, etc.,

"*September 9, 1851.*

ROB. H. COLLYER."

Following are the forms in which communications were presented to the executive committee by members thereof:

"*Resolved*, That the sentence of death pronounced on the two men Whittaker and McKenzie still remain in full force, and that all necessary means shall be resorted to to obtain possession of these men, and when taken that they shall meet the punishment due their crimes, as the voice of the people demands it. Adopted.

"No. 591."

"Mrs Bridges, lives in a brown colored house on Bush street, above Montgomery, whose brother kept a tavern in Sydney, will give information in regard to a female landed from the ship *Adirondack*, whose house in Sydney was a receptacle for stolen goods, and has been the means of leading more into vice than any other female in that country. She has already taken a house, and there is no doubt it will soon be one of the greatest cribs in California.

"No. 152."

CHAPTER XXVI.

CLOSE OF THE FIRST CRUSADE.

That which turns out well is better than any law.
Menander.

At the general meeting held the 9th of September a committee of five was appointed to select twenty-five or fifty names to be submitted to the Committee for election as an executive committee, to hold for six months, and whose duties should be to offer such council and take such action as should best promote the interest of the association. One week later the committee reported as follows:

"The committee to whom was referred the subject of selecting the names of fifty or a less number of gentlemen to constitute an executive committee, who should hold their offices for a period of six months, and to suggest such other measures as in their adjudgment may be of interest to the association and the community, beg leave respectively to report that they have selected the following names of gentlemen in number as candidates for election by the association; that they recommend, upon the election of the committee, that the association adjourn *sine die*, and that the present acting executive committee turn over to the newly elected committee all papers, books, and documents emanating from the operations of the Committee since its formation; that twenty members of this committee shall hold their office for a period of one year from the date of election, and twenty for a period of six months, the short and long term to be determined by drawing; that they shall choose their own officers, and shall have power to fill any vacancies that may arise by resignation or otherwise; that fifteen days before the expiration of the six months for which they are elected they shall call the association together and submit a report in writing of their proceedings during the period of six months, and the association shall then elect twenty members to fill the vacancies of those whose term of six months has expired; that said executive committee shall take no action for the arrest of criminals, or in any manner interfere with the due course of law, but should an emergency arise which in their judgment

requires again the action of the association, they shall call them together by such signals as may be agreed on; that this committee be instructed to watch with vigilance the action of our courts having criminal jurisdiction, and also all men in official stations, and especially observe the operation of the laws now in force; and should they deem it expedient to have such laws altered or amended whereby greater facilities may be had to convict and punish criminals, they may be authorized to petition the legislature upon the subject and use their exertions to have such amendments carried. The association, believing that the community relies mainly upon them to shield it from the evils arising from the maladministration of the law, will hold this executive committee to a strict accountability in the performance of this duty."

On the 23d of September the following were declared elected members of the executive committee: W. D. M. Howard, Samuel Brannan, W. T. Coleman, James C. Ward, E. Gorham, B. C. Saunders, S. E. Woodworth, James King of Wm., James Dows, H. F. Teschemacher, Dr A. B. Stout, F. Vassault, J. S. Parrott, R. M. Jessup, James B. Huie, Joseph Post, Charles Griswold, Stephen Payran, H. A. Cobb, George M. Garwood, G. W. Ryckman, Thomas J. L. Smiley, John W. Cartwright, William W. Thompson, L. D. Kinnay, A. Kirchner, W. H. White, John Raynes, D. Jamorin, James M. Swift, George R. Ward, H. M. Naglee, W. Burling, I. De Long, W. C. Annan, L. Maynard, W. A. Darling, J. F. Hutton, Samuel Dewey, F. Argenti, E. Delessert, Charles L. Case, Fred Woodworth, and Isaac Bluxome Jr.

Of these the following were elected officers: Stephen Payran, president of the executive committee; Selim E. Woodworth, first vice-president; G. W. Ryckman, second vice-president; Isaac Bluxome Jr., secretary; D. L. Oakley, sergeant-at-arms; George R. Ward, L. Maynard, E. Delessert, James King of Wm., F. J. L. Smiley, finance committee; Garwood, G. W. Ryckman, Charles L. Case, J. F. Hutton, Fred A. Woodworth, qualification committee.

By the latter part of September the general committee considered its present work completed. To the new executive committee were turned over all books and documents thus far accumulated.

Among those elected to serve for the term of twelve months were Samuel Brannan and Thomas J. L. Smiley, and among those elected to serve for six months were James King of Wm., Stephen Payran, Wm. T. Coleman, and G. W. Ryckman.

Mr Bluxome was authorized to collect delinquent dues and fines, retaining ten per cent thereof for collection. A committee was appointed by the president to prepare by-laws for the guidance of the executive committee.

From the grand jury report made the last of September I extract the following:

"The grand jury cannot help noticing the marked diminution of crime in the city and county of San Francisco within the last four months. Knowing the anxiety felt by the people, and the disturbed state of the public mind which has prevailed for the last five or six months in our city on account of the numerous acts of arson, thefts, burglaries, and murders which have been committed, this announcement is made by the grand jury with the highest satisfaction. The strong popular resistance made by the people to their criminality, the very commendable and decided action of our predecessors, and the efficient, firm, and prompt action of the honorable the court of sessions, have had a powerful influence in arresting the progress of crime, and for giving security and protection to the lives and property of our citizens. As the courts are the only lawful and constitutional tribunals to which the people can look for support and the vindication of their rights, violence and partial if not complete anarchy will follow where they fail or neglect to discharge their duty without fear, favor or affection. History proves that Americans are a law-confiding and a law-abiding people, but where they cease to have confidence in their public agents they will have their rights and property protected by tribunals of their own establishing until the laws can be executed in the spirit and letter in which they are written, through tribunals established by constitutional authority. While we regret the use of such means for self-defence, there is some palliation for such a course in the widespread alarm which prevailed lately in our city on account of the dangers that surrounded us. Should the courts continue, as they are now doing, to maintain intact and inviolate the rights of the people, under the laws and constitution of the state, we feel satisfied that no future attempt will be made on the part of the people to supersede their authority. We say, should they continue to do this, confidence will be restored, crime will be greatly arrested, and the courts will become the hope of the injured and the oppressed, and the people their loyal supporters and defenders."

At the end of September the executive committee removed to their new and less expensive quarters over

Middleton and Smiley's auction rooms, on the corner of Battery and Sacramento streets. These rooms were carpeted and handsomely furnished. At one end of the executive chamber was a rostrum where stood the president's chair, and in front of a desk hung the banner presented by the ladies of Trinity parish. Behind the president's chair was an elegant mirror, and in the centre of the room a large table containing books and writing materials. The windows were neatly curtained, and the walls adorned with maps and pictures. In an adjoining room were stored the paraphernalia of the police, arms, chains, ropes, handcuffs, and the like.

The effects in the old quarters on Battery street, no longer needed, were disposed of by auction. I give the inventory, as consigned for sale to Messrs Cobb and Company, which tends to fill a blank in the picture of life in the Committee rooms:

32 Mattresses.
41 Blankets.
14 Pillows.
20 Side lamps.
12 Candlesticks.
1 Demijohn.
1 Jug.
2 Empty oil casks.
1 Pitcher and basin.
1 Wooden bucket.
1 Coffee-urn and lamp.
1 Coffee-pot.
1 Lot of crockery ware.
12 Spoons.
2 Tables.
6 Small tubs.
2 Large tubs.
½ Barrel hard bread.
½ Tub butter.
1 Tin lard.
1 Trunk and contents.
19 Window-curtains.
2 Tin basins.
1 Small looking-glass.
2 Tin oil cans.
1 Tin pan.
6 Broken chairs.
35 Benches.

Quite a quantity of lumber had accumulated, which was sold to Blackburn and Thompson.

At a meeting of the executive committee on the 24th of September, thirty-five members being present, with Mr Payran presiding, a committee of three was appointed to procure counsel for Mr F. A. Atkinson in the case of Metcalf vs. Argenti, Atkinson, et al.

Subsequently, a change of venue in this suit having been ordered, the president of the San Francisco Committee wrote the president of the Committee of Vigilance of San José, requesting him to employ every effort to gain the cause.

The Committee rooms should be kept open day and night, and no member should be admitted unless his dues and fines were paid. The quarters over Middleton and Smiley's auction rooms were taken, as being central and less in price than other similar ones, though the monthly rental was four hundred dollars.

At this meeting the treasurer, Eugene Delessert, offered to loan the association one thousand dollars for sixty days without interest, in order that the outstanding bills might be paid. The offer was accepted with thanks.

By the 2d of October the finance committee were enabled to report all claims discharged, and $236.29 in the treasury.

In the daily journals of the 2d of October appeared the following notices:

"WHEREAS, An article has appeared in the *Evening Picayune* of this day stating that the Vigilance Committee had ceased active operations, and in consequence of the general condemnation of the commercial papers in the Atlantic States; therefore,

"*Resolved*, That the Committee cause to be published in the various papers of this city that they hold themselves ready for action should the community be again situated as at the time of the organization of said Committee, and that no comments of any newspaper can drive them from a conscientious discharge of their duty to their families and fellow-citizens.

"By order of the General Committee. S. PAYRAN,
"President of Executive Committee."

"ISAAC BLUXOME JR., *Secretary.*"

"NOTICE.—The Executive Committee of Vigilance will meet at their chambers this evening at eight o'clock.

"By order of Committee.

"STEPHEN PAYRAN,
President."

"I. BLUXOME, *Secretary.*

Besides acting as vermin-exterminators the Committee officiated in other capacities of scarcely less

importance. Not only did they exercise a strict surveillance over the courts and officers of the law, but they kept within bounds the ebullitions of the people. Mobocracy they frowned upon no less than legal libertinism. Standing midway between popular extremes, they were the great balance-wheel of the social and political machinery. On several occasions toward the close of their administration, and some time after chronic villainy in its mightiest proportions had been crushed, the Committee lent their aid to suppress popular excesses as well as to bring within the embraces of the law all offenders on whom they could lay their hands.

If further proof were wanting of the integrity of the Vigilance Committee in its attitude toward law, it may be found in an event which occurred about the time of its disbandment,—I do not say disorganization. It was thought not a little strange by some of its adherents that a popular uprising which brooked no dictation from any power, and which had ranged its determinate forces against the existing courts of law and forms of justice whenever such contrivances interfered with its purpose, should upon the first occasion deemed meet in its own eyes lend law a helping hand and turn its frown upon the people.

Yet this is only what it professed from the first, namely, that the principles underlying the vigilance movement were no more mobocratic than revolutionary. These volunteers in the cause of social and judicial morals would not allow statutes and court formulas to prevent them doing the right; but they were equally far removed from permitting their fellow-citizens to overturn the law or oppose it under trivial or unnecessary causes.

In the summer of 1851 the clipper ship *Challenge*, Waterman master, sailed from New York, and arrived at San Francisco the last of October. The crew was composed mostly of foreigners, and those of the worst class. Before reaching Sandy Hook the quality of

the crew was so clearly apparent that the owners urged the captain to put back and get new seamen. Waterman was a bold, determined man, and thought himself a match for any kind of sailors. During the voyage the crew mutinied and caused much trouble. Douglass, the chief mate, was stabbed with a dagger, and the captain narrowly escaped seizure. Amid much tribulation and danger the ship was brought safely into port.

But during the voyage Captain Waterman had been severe and even cruel; whether unnecessarily so does not appear. Three of the seamen had been knocked overboard from the cross-jack yard in a gale; five died from dysentery on the way and one from epilepsy the day of arrival. Many were maimed by the blows which they had received during the voyage, and on landing were sent to the hospital.

Immediately on dropping anchor the captain went on shore. Shortly after it was noised abroad that Waterman and Douglass had shamefully treated the crew during the voyage, unmercifully beating and even killing some of them. Boatmen and sailors were especially incensed by the account, and when the vessel hauled in to the wharf a large number of long-shoremen gathered at the foot of Pacific street, threatening to hang the captain and mate the moment they could lay hands on them. The captain deemed it prudent to retire from the city, and Douglass, who was then on board, slipped over the bow into a boat, pulled round Rincon Point, and escaped in the chaparral. This was the 30th of October. Search was made for master and mate until late into the night, but without success.

Next day the disabled seamen were removed from the ship to the hospital, and the sight raised the fury of the crowd to the highest pitch. Two thousand belligerent men gathered in front of the office of Alsop and Company, consignees of the ship, and demanded the persons of Waterman and Douglass. They were

informed that those they sought were not there; but this did not satisfy them. Six of their number were detailed to search the premises, but their efforts were unavailing.

Meanwhile the mayor bestirred himself to quell the excitement. He first appealed to the assemblage itself, but the mob hooted him and defied the authorities. They fancied themselves already in possession of the city, and would listen to no terms which counselled moderation. The mayor called upon the citizens to assist in the preservation of the public peace. But in those days when all good men belonged to the Society of Stranglers, murderers as the court called them, outlaws as the mayor himself had said, who were the citizens?

Then it was that the much maligned Committee of Vigilance rallied to the rescue of the city's honor.

The officers of the *Challenge* might or might not be guilty of atrocities; but in either event this was not the way to determine the matter. This was not the way the Committee of Vigilance dealt with offenders. Nor would they permit the mob spirit to disgrace them or triumph over law. They themselves had been called a mob, but never were men more maligned. They had not a single element of mobocracy in their composition, except that they regarded not, at all times, the letter of the law. The mob was mobile, they were firm; the mob was passionate, they were cool; the mob hanged first and tried afterward, they executed justice only after the most solemn judgment.

In this instance, whatever the master and mate might be, they were not chronic criminals or lawless desperadoes, and therefore were not fit subjects for the secret tribunal. They were responsible men, following a legitimate calling. It was a matter for the courts only.

Then went forth the order from the executive chambers informally to disperse the rabble. Behold now

where centred the strength of this people! Not in statutes, governors, or municipal powers, but in the citizens whom the mayor had decried in vain. Within five minutes after the order was given the Monumental bell struck its significant note, and on the instant around that California-street crowd the cry was heard, "Attend vigilants!" "Fall into line!" "March!" And they did march,—straight into the heart of that crowd, told the leaders to begone, told the enraged longshoremen to get them to their own affairs instantly, lest worse betide them. And they went; an hour later and the street in front of Alsop and Company wore its usual aspect.

Thus ended the affair so far as the Vigilance Committee were concerned. It is true that some time after there was talk at Pacific-street wharf of scuttling or burning the ship; the captain was hanged in effigy on the plaza, but no further violence was offered. The United States Marshal boarded the ship and informed the sailors that they were at liberty to enter complaint against their officers, and they did so. Of murder and maltreatment they accused them. Doubtless these men deserved the punishment they received; but it is the attitude and action alone of the Vigilance Committee that we are called upon to note in this connection.

The following letter, directed to sheriff Hays, shows the feeling then existing between the Committee and that officer:

"EXECUTIVE CHAMBER OF THE COMMITTEE OF VIGILANCE,
"SAN FRANCISCO, August 11, 1851.

"*To John C. Hays, Esq., High Sheriff for the City and County of San Francisco:*

"DEAR SIR:—Permit me, on behalf of the Committee of Vigilance, to offer you the annexed report, with the action thereon; and in their name I offer, with the concurrence of my colleagues, the thanks of the Committee for your perseverance, skill, and assiduity in bringing the affairs of our county prison to so happy an issue. We regret much that you personally should have suffered any pecuniary inconvenience in the prosecution of its financial affairs, and earnestly hope that the pittance raised by us may serve to carry out your sanguine expectations and subserve the public safety. As a public servant

we have much in you to commend, and at all times as citizens will lend our aid to assist you in your legitimate course of office.

"May you long survive to serve the state of your adoption and receive the good wishes of your fellow-citizens.

"Very truly, your obedient servant,

"STEPHEN PAYRAN,

"*President of the Executive Committee.*"

After the relinquishment of authority by the first Committee there was little thought of prosecution on the part of any. Society was happy in its deliverance from outrages against person and property; the law was happy in the assistance which had been rendered in lifting it from low estate and restoring that rightful power and place in the affairs of the commonwealth which had been denied it; and thieves and assassins were happy that heads were still left upon their shoulders, and that affairs were no worse with them. Hence it was that grand juries, instead of presenting indictments against members of the Vigilance Committee, praised them in their reports, while lamenting the necessity of the organization.

The *Alta California* of the 25th of August speaks wisely upon the subject. Its editor writes:

"Every Californian whose business led him into the Atlantic states last year knows with what horror the action of our Vigilance Committee was viewed there. Those who were not called there, who read the Atlantic newspapers regularly, could judge something of the state of public opinion as it found expression in them. For once all parties agreed. All classes of society, the enlightened and the ignorant, the honest and the dishonest, the business men and the men of leisure, the philanthropist and the pick-pocket, every one, in fact, united in one universal shout of denunciation against the Vigilance Committee of California. Every one mourned the fall of a young sister state which had excited the wonder and admiration of the whole world as one who had fallen to the very lowest scale of anarchy. Republican institutions for once had been overthrown by a lawless mob, who defied the courts of justice. Law and order were at an end. Lamentations loud and deep were uttered; and for once the capacities of the people for self-government were doubted. Anti-capital punishment men exclaimed to those who had opposed their efforts, 'See the effects of your bloody code! Blood for blood is no longer the cry; but blood is now demanded for a few paltry dollars, or for a few goods, and that, too, without a trial before a judge and jury! The evidence is offered to a mob by a mob! These are the beauties of the

system you advocate! How do you like it?' But such expressions elicited no reply. No man who had been an advocate of capital punishment would utter one word in defence of his former opinions; but all concurred in the opinion that the institutions of California were irretrievably destroyed.

"One of us was in the Atlantic states when this excitement was at its height, when every mail steamer brought news of trials and executions by the Vigilance Committee; but it was in vain that we remonstrated against the abuse that was heaped upon this community, in vain that we told the people that the best citizens of California composed it, and that they had leagued themselves together for the protection of their lives and their property. Against us they would say, 'If this Committee be composed of good citizens, why do they not allow the proper tribunals to try those who transgress the laws?' We urged the fact that the most depraved wretches in existence, guilty beyond a dispute of the crimes charged against them, had been allowed to go at liberty times without number after going through the farce of a trial by our courts, until at last forbearance on the part of our citizens had ceased to be a virtue. The people had too much evidence that our courts had been corrupted; that the country had been overrun with convicts escaped from Van Dieman Land and other parts of the world, and the leniency of our judicial tribunals was bringing new recruits every day. But no one would listen to us. People in the Atlantic states actually believed that the press here supported the action of the Vigilance Committee only through fear of having their offices pulled down and their types and presses destroyed.

"But the Vigilance Committee neither heeded the admonitions of their law and order loving brethren of the Atlantic states, who undoubtedly meant well in tendering their advice, which was worth about the same amount as that commodity usually is when unasked, nor those who were crying for law and order here, and who only wanted to escape the punishment of their crimes. But the Vigilance Committee were the real friends of law and order, and they have succeeded in establishing such a state of quiet and safety as never could have been accomplished by our courts had they been never so good. The men who were powerful here only for evil have suffered the just reward of their crimes, or have eluded the argus eyes of the Vigilance Committee and fled to more congenial climes, the law and order loving cities of the Atlantic states. The tides of human feeling, like the tides of the sea, have their ebb and flow. They were at flood tide when our Vigilance Committee were doing their duty to the state, to society, and to themselves. Since that time the tides have receded. The tempest of abuse has been succeeded by a long calm. Those people who expressed so much pity for those who were hanged so unceremoniously here, now find a few more left of the same sort at their own doors, many of which are broken open o' nights. These poor persecuted people have sought an asylum where law and order was the cry. In New York and Boston is this especially the case. Burglaries in those cities are of very frequent occurrence, and in the former city highway robberies are not at all surprising. A resident of New York had been knocked down with a slung-shot in the night, but succeeded in attracting sufficient attention to draw the police to the spot, who captured the robbers. The man was carried home, and took his bed. When he was able to leave his

house he inquired for the robbers, and learned that they had been discharged for want of evidence! The press of the city, without distinction of party, denounces the city government for such laxity. Justice has been robbed of its due there. No one at all acquainted with the facts doubts it. But who believes that justice there is robbed of one tenth of what it was here? No one. Our judiciary was in its infancy, theirs is in ripe manhood. But notwithstanding this the people of that city have been talking of forming a vigilance committee and taking the execution of the laws into their own hands! The New York *Times*, one of the most extensively circulated journals in the United States, has actually threatened the city government that unless they administered the laws better the people would do it themselves!

"Does any one want any better evidence that the sober second thought of the people believes the Vigilance Committee here acted otherwise than for the best interests of humanity?"

The correspondence of the London *Times* writes from San Francisco as follows:

"Regarding this Vigilance Committee public feeling is divided. All in authority and connected with the administration of the law are against the institution, while a large number, I think a majority, of the better classes of the people are in favor of it, and support it by voluntary money contributions. To understand the state of public sentiment correctly it is proper to add that, however anomalous such an institution may be in a free country, the community on the whole entertain no apprehension from it, nor is it feared that it will exceed its professed limits of weeding society of its pests. Although the existence of such a body in any other country would probably produce a reign of terror and break the bonds of society asunder, no such result is feared by us. The non-vigilance citizen is on as amicable terms with the Vigilance Committee man now as ever. As to its composition, it is, like most large bodies, a mixture of good and of bad men. Its effect has indubitably been to diminish crime, and it keeps up an unobtrusive surveillance over the suspicious members of the Committee."

In a petition signed by certain residents of San Francisco, and presented in the California legislature by Mr Wood the 27th of January, 1852, requesting that a man named Redmond might be taken by the citizens and hanged, we reach the irony of the popular administration of justice. The petition was tabled.

In reviewing the action and effect of the San Francisco Committee of Vigilance of the epoch of 1851, one cannot fail to observe with how little punishment a great reform had been accomplished. No sooner

did the power of the organization begin to be felt in its full force than criminality was dissipated. Desperadoes, knowing that sure and swift punishment would follow their evil deeds, paused, then scattered in every direction, glad to effect their escape. California ceased to be the place for them. Thieving was no longer the safe and profitable occupation of former days. Profit was not commensurate with the risk.

And what had the Vigilance Committee done to effect this great and sudden change? It was not in the extent or magnitude of their punishments. They had executed but four persons, when fourscore should have been hanged, if law had done its simple duty. And fourscore executions could have occurred under condemnation of the law without exciting half the terror caused by these four executions by the people. Evil-doers were well acquainted with the law. They knew exactly what to depend upon in regard to law. They knew wherein they might expect the law to befriend them, and wherein to punish; where courts could be employed as protection, and in what respects it were best to avoid them. During this golden age of crime in California, like the lion and the lamb they and the law had often lain down together. Courts were the legitimate risks attending their occupation. They had no quarrel with the courts; but this new and worse than infernal agency was their abomination.

Under the old *regime* each limb of the law was as well known to the professional offender as his own limb; but under the new order of things every man he met was a spy upon his actions. Popular instinct, that greatest of social influences, he felt to be almost morbidly alive, and the odds were too great against him.

The necessity for further immediate action seeming no longer to exist, the Committee laid down their power as gladly as they had taken it up reluctantly. They did not disorganize, rightly believing that should they do so, and the fact become known, crime

would instantly return and take courage, and the permanent result of their labors prove of little value. Adopting the wisest course possible under the circumstances, they informed the courts and their officers that henceforth, unless occasion seemed to require it, they would not interfere in the regular course of justice; nevertheless they stood ready to aid the law, by every means in their power, in any emergency.

As late as May, 1852, the executive committee were still holding their meetings, but the records close abruptly the 30th of June, 1852. There is nothing to show any extraordinary adjournment, disbandment, or ending of affairs. The chief concern at the late meetings seems to have been to collect money and pay the debts of the association. One year of toilsome duty at that time was no light matter; and the feeling seemed generally prevalent that if there was nothing more for the Committee to do, further expenditure of time was useless.

CHAPTER XXVII.

BEFORE THE WORLD.

Things do not torment a man so much as the opinion he has of things.
Montaigne.

Often in the most liberal governments there springs from fanaticism an absolutism which rages as fiercely as any which may be found under monarchical despotism. In the midst of the vigilance movement there were promulgated by its opponents doctrines more extravagant, and sentiments more slavish, than any enunciated by worshippers of the British throne since the days of King John.

It is very easy to judge the actions of others, particularly when we know nothing about them. Critics are so much wiser than the criticised, are so much better informed than others, that no matter what a man may spend his life in studying, he has at last to awake to the disappointment of finding a hundred who have never looked into the subject knowing much more about it than himself.

The position assumed by a journal has too often little to do with the principle involved. The first question a newspaper proprietor asks in determining which side of a proposition he shall espouse is, Which will pay best? Clearly it was the correct policy of the *Herald*, which even at this early date enjoyed the patronage of the auctioneers and merchants, to sustain the popular movement. And so with the *Alta* and the *Chronicle*. The San Francisco *Morning Post*, however, saw, or thought it saw, an opening on the

other side. There were too many vigilance journals. There were many opposed to the Vigilance Committee, and naturally enough the sentiment of law and order would increase with time, so that no little buncombe might be indulged in by combating the cause of vigilance. I need scarcely say that the *Chronicle* and the *Post* of that day were not the journals bearing the same names to-day.

The *Post*, the champion of law and order during the year 1851, as a matter of course warps all eastern intelligence to its own ends. In its issue the 10th of September the editor remarks:

"An intelligent gentleman who has just arrived in the *No therner* informs us that in travelling throughout the northern states he found but one prevailing opinion with the class of men whose interests are connected with Californian trade, and that was that this Committee, with its peculiar and extraordinary organization, had injured the credit and standing of this city to a greater extent in the states than all the fires and other calamities we have ever suffered. This organization was urged as an objection in New York to any investments in Californian state and other securities emanating from here; and if the hanging of Jenkins on the old adobe had affected nothing else it had driven Californian securities down some fifteen or twenty per cent in the Atlantic cities. If our credit is tarnished by these proceedings it may be called croaking, or what we choose, but it does not alter the fact that the merchants and bankers of the east will regard us all with distrust, as a country without law, as a people ready to take life without legal trial, and as much more likely to repudiate any obligations, and therefore not to be trusted."

Beginning with the London *Times* of the 27th of August, we find written of California:

"Its moral condition from year to year has been apparently declining, and in place of imperfect institutions we now see a deliberate supercession of law. Were it not for the current belief to incendiarism we should hardly be warranted in drawing any positive inference from the extraordinary recurrence of general conflagrations in these distant parts. There certainly, however, is no parallel in history to the combustibility of San Francisco. The political age of the city is barely three years, and yet it has been six times destroyed by fire—destroyed, we learn, so totally that scarcely a square remained unconsumed. It has twice suffered grievously from inundations; it was horribly afflicted by the cholera twelve months ago, and its ordinary climate is said to be destructive to European health. Notwithstanding all this, San Francisco survives and increases at a rate leaving London and Liverpool far behind. The point, however, to which we would bespeak attention is the remarkable movement of opinion, in virtue of which what

was once a barbarous process of vengeance or violence has been transformed into a recognized operation of popular justice. But it must be evident to all observers that an organized association, powerful enough to supersede the law of the land in open day, could have no possible difficulty in amending the administration of this law, had they directed their efforts to such a purpose instead of dispensing with law altogether. Very likely the jails were defective, the police remiss, the assizes infrequent, and the general prospect unsatisfactory; but we need waste no words in observing that, in a community pretending to some civilization, nominally well organized, and formally admitted into such a federation as the American Union, the exertions of the citizens should have been turned to supplying these deficiencies rather than to instituting precedents of which no man can calculate the evil. The English reader may probably think it a superfluous consumption of argument to prove that men should not be put to death by the agency of a mob or at the bidding of a secret society; but the tenor of our correspondence does really give a gravity and importance to these proceedings which such outrages would not otherwise possess. It is not denied that the delinquents had what in Saxon phrase is a fair trial, that they were most undoubtedly guilty, and that the system is operating to the terror of offenders hitherto incorrigible. In fact, the principle avowed is that of *salus populi suprema lex*, and the inhabitants concur in asserting that the time for appeal to this ultimate resort was uncontestably come. But they must surely see, upon reflection, that no calamity can be so truly formidable as the substitution of force for law, and that if the recognized machinery of justice be thus set aside, uncontrollable anarchy must infallibly result."

Commenting upon this the editor of the *California Courier* remarks:

"The first sentence in the above extract is true in no one particular. The London *Times* is remarkable for its vindictiveness and misrepresentation of American institutions and character. Our true character as a people has rarely been fairly presented by correspondents to journals in the Atlantic states and in Europe. They have most generally sought to manufacture magnificent stories, for the purpose of having their communications read and spoken about. To this source we attribute in a great degree the many absurd statements and unjust reflections upon the people, the institutions, and the climate of our state. The *Times* is radically in error in stating that San Francisco has been twice inundated. It has never been once, and we never expect to see it. The action of the Vigilance Committee was the result of high moral considerations. That Committee has not only arrested crime, but it has saved life and stimulated honest industry. It has made an impression that has penetrated and permeated every portion of the commonwealth that crime cannot be committed with impunity, that all men must secure a living by the sweat of their brow, in an honest calling. We are not only thankful for the good work of that Committee, but for the salubrity and purity of our climate, and the proud career which is opening for our people and the powerful young state of their adoption."

From far away Vermont there comes a gentle wail which makes one fairly pity one's self for being of California. Thus the *Union Whig:*

"It appears that at present, her republican constitution having been found unsuited to the moral grade of the people, California is governed by the most terrible of all forms of despotism. Such is the only ground upon which the present measures can be even palliated. If the mass of the people are so corrupt that no patience and vigor of constitutional effort on the part of the property holders can afford a hope of imparting purity and certainty to the operation of law, then indeed is society virtually resolved into its elements, the constitution has ceased to be, and some form of self-protection must and ought to spring up adapted to the emergency; in other words, some form of despotism is the only alternative of anarchy for that people. Murderers unhanged, prisons and sheriff made the laughing-stock of culprits, judges corrupted, and crime stalking unrebuked at noonday, these would not persuade us that the state of things we have supposed had arrived. Patience and vigilance may gradually remedy all these, if the majority of the people so resolve, in a constitutional manner. But this fierce impatience of delay in a lawful remedy; this vengeful swiftness to shed blood; this unwillingness to suffer for the sake of constitutional liberty; all bespeak a people incapable of self-government and ignorant of the first principles of freedom. The problem for California, in the first place, is not so much whether her laws can be made more stringent and summary for the emergency, her courts purified, and her prisons fortified, as whether her people can be brought back to reason and the constitution. This done, the former may follow at once."

And again the *California Courier* takes up the gauntlet:

"In the outset the editor assumes that it had been discovered that the republican constitution and laws of this state were found unsuited to the moral grade of the people of California! Upon what information does the editor found such an assumption? On the contrary, the constitution and laws of California are admirably suited to our wants, so far as criminal matters are concerned. Had he been here and investigated the real state of affairs he would have discovered that it was for want of the proper enforcement of these laws that the services of the Vigilance Committee were brought into requisition. But the writer talks about patience and constitutional effort to bring about a remedy for the evils under which we labored. Patience! Let the editor have been placed in the situation of a Jansen, or of a brother of Reynolds, or of the sixty men who had suffered death at the hands of the assassin in our city during the year previous, or of one of the thousands who suffered from the torch of the incendiary, and reflect that in no instance had punishment been inflicted upon the guilty perpetrators, and then talk about patience! His heart must be colder than the snows of his barren Green Mountains had it not leaped for joy when a few men nobly came forward and established that terrible but just tribunal, the Vigilance Committee. There

is in the above extract a studied attempt to create the impression that revenge or the desire to shed blood was the motive which actuated the formation of the Committee and its subsequent conduct. This idea no one here who knew the men composing it or who scanned closely their action will for a moment countenance. What were the acts of the Committee? Who did they punish? Did any innocent man ever suffer from their acts? By no means. On the contrary, what would have been the fate of Burdue had it not been for the arrest, conviction, and punishment of Stuart? The former had all the benefits of the civil tribunals, and yet was under unjust sentence for robbery and murder on two distinct charges. But the editor has made the discovery that the people of California, who have been scarce two years out of the Atlantic states, and who hail from every portion of our great and glorious Union, are incapable of self-government! What a discovery, to be sure. Here we are with the constitution and laws upset, incapable of government, trampling all laws underfoot, and yet a tax-collector makes known that seventy-five thousand dollars are wanting to meet the interest on the city debt, and in a week double that amount is raised—more money than can be squeezed out of the people of the whole state of Vermont in two years! The problem of which the editor speaks has already been solved, we trust to his satisfaction. So soon as the nest of villains who were preying upon us had been broken up, and a disposition was evinced to carry into execution our laws, just that soon did the Vigilance Committee cease to exercise its powers. But we can tell that editor, and all the world beside, that should the same necessity require it, they will resume their powers with twofold the numerical strength with which they before existed."

Thus the Philadelphia *Ledger:*

"The news from California by the *Brother Jonathan* is interesting. San Francisco seems to be a city of excitement. In the absence of fire to keep up a pleasant popular ferment the citizens resort to a different species of amusement, and hang a man under the lynch code by way of vindicating the laws and enforcing moral honesty. A miserable wretch caught stealing has been seized and hanged by a mob composed of the most respectable individuals—respectable for what? Not surely for being good citizens, supporting the law, and abiding by its decisions. The fact that they were respectable citizens who committed this act is mentioned, we suppose, to justify the outrage; but it is time that respectability in California should be taught that the law was made for all, and that its authority should be respected by all respectable or otherwise. California has made a bad beginning in this respect; and unless the real respectability of the place, the men who know that laws are made to secure their rights and cannot be violated with impunity by any mob without injury to society, unless these men should step forward and put an end to such acts of outrage and rebellion, by assisting the lawful authority and properly punishing those audacious enough to set it aside, greater calamities than have befallen California will ensue, and scenes of violence, destruction of property and life, will be the sequel of the matter. It seems that one of the principal persons who figured in this outrage is not very remarkable

for moral honesty himself, for an occurrence of very questionable honesty in New York is related in which he is charged with being the principal actor. We see other names mentioned in the affair, of persons who may still have creditors in this part of the world who might be loath to trust the public integrity to their keeping exclusively."

Great was the loss to California that the *Ledger's* editor had not been there. It is so easy to sit in a sanctum chair three thousand miles away and tell how things ought to be! Hear him again on the 18th of August:

"This was a violation of existing laws, and rendered them technically criminal in every proceeding against anybody's life, liberty, or property. We do not justify such proceedings. They would be criminal in the last degree in any other state of the Union; and they are criminal in California so far as they are needless. The honest portion of the people might form committees to detect criminals and to aid the authorities in securing them; and so far as their laws were defective they might insist upon an immediate session of the legislature to reform them; and if they wanted confidence in their judges and sheriffs, public opinion, thoroughly roused, might compel them to reform or resign. We think that all the good done by these committees of vigilance against law might have been done according to law, by coöperation with, instead of opposition to, the civil authorities. But considering the horrible state of things in California, the result, in no small degree, of official laxity or dishonesty, much of which was imported from New York, we do not condemn their proceedings quite so severely as we should similar proceedings in any other state. A self-constituted tribunal cannot be tolerated under a regular and free government without putting all rights at hazard. But under these pressing exigencies in California we admit that a salutory terror has been inspired among criminals; and we will hope that all good citizens of that state will aid instead of acting independently of the laws."

The New York *Herald* of the 19th of September remarks:

"The prominent and by far the most conspicuous feature of the California news is the prevalence of what would be called on this side of the continent the supreme authority of Judge Lynch. In San Francisco it is the execution of the decrees of the Vigilance Committee of five hundred, not quite so ceremonious as the old Venetian Council, in the prompt punishment of criminals, and for the preservation of law and order. Strange as it may sound in this longitude, these off-hand trials and summary executions are in good faith designed for the preservation, or rather the restoration, of law and order. The criminal may be a murderer, a horse-thief, a burglar, an incendiary, a common shop-lifter, or a petty rogue, if the vigilance committee catch him and convict him he is instantly carried out and hanged up at the nearest con-

venient tree, or beam, or rope and tackle. The crime, the pursuit, the apprehension, the indictment, the trial, the judgment, and the execution, may all take place the same afternoon. The whole business in the case of Jenkins was done in the course of an evening, by moonlight; and in the case of Stuart, another Botany Bay convict, tried also as a thief, the interval between the commencement of his trial and the hanging was about five hours. In the case of the Mexican woman at Downieville, who for fatally stabbing a miner was tried by the popular process in such cases established and convicted of murder, the blood of her victim was not yet cold when the woman, having been tried, convicted, and condemned, was swinging lifeless in the air. The Anglo-Saxon institution of the rope, by a sort of wittena-gemote or commune consilium, may be considered as pretty well established in California; but the rapidity with which it brings the criminal to his quietus is somewhat startling to a community accustomed to the slower formalities of law. This quickness of the penalty is even more astounding to our preconceived notions than the range of crimes which come under the death penalty by the new California code. We have no nice distinctions between murder and manslaughter, nor between highway robbery and a petty theft; the same judgment of strangulation makes short work of them all. Truly this is a terrible state of things, and is deeply to be deplored. But the people of California, it appears, not only have reasonable excuses for these summary and indiscriminate executions, but their situation is such as imperatively to demand them. The Australian convicts of England, the most desperate and lawless vagabonds from every nation under the sun, have been concentrating their forces in California since the golden discoveries of 1848. They have become formidable, dangerous, and criminally mischievous. Murders and robberies were multiplying; San Francisco was in the power of incendiaries, and her citizens and their property at the mercy of thieves and assassins. The existing laws were inefficient; they were so slow, and the means of confinement of offenders so insecure that the chances were in favor of their escape. Such was the state of things which led to the Vigilance Committee and its summary execution of the judgments under the new code. It appears that this Vigilance Committee act as such without pay or emolument, but simply to maintain the supremacy of the rights of life and property. There may be then no help for the existing state of things in California. It may be that the imperative necessities of self-preservation have driven the people to these extremities. We trust that law and order may soon be reëstablished and assigned to some effective guardianship under the regularly constituted tribunals of the country. We have no doubt whatever that the active, honest business community of California are laboring to this end, nor have we any doubt of their final success in attaining it."

And again on the 26th of September with somewhat more of self-complacency:

"The news from California and Lower California is of a gratifying character. We are happy to find that the popular tribunal at San Francisco, called the Vigilance Committee, has now surrendered to the legally constituted ad-

ministrators of the law the peculiar functions which belong to such officers in all civilized communities, and that this body of men who have been forced by circumstances to usurp legal authority, in compliance with a popular instinct toward the preservation of life and property, are now no more than a force of voluntary police officers, such as are commonly found, though smaller in numbers, in every village in the United States where circumstances require such an organization for the protection of society against the lawless and licentious. It is to be hoped that other lynch tribunals in the sparsely settled districts of California will soon be dispensed with, either by the issuing of legal commissions or by some judicial means for bringing the offenders against life and property to justice. The execution of Greham at Greenwood Valley, though conducted with extra-judicial forms of law, and with exterior propriety, is an event to be deplored, however necessary such examples may seem to those who are beyond the immediate assistance of legal authorities, and who are excited to make terrible the retribution of society in cases of wanton crime."

The New York *Journal of Commerce* concludes a long account of Californian affairs in these words:

"We invoke no sympathy for the victim. He was a man of crime and blood, and his existence was incompatible with the safety of society. The vindication of public justice demanded his execution, but not by the infringement of public law. There was no risk nor peril to be apprehended from a judicial trial which the committee of seven hundred had not ample power to avert. Judge Campbell, in his charge to the grand jury, says that under the law then recently come into operation, so amended as to secure the speedy trial and conviction of offenders, the time requisite for the indictment, trial, conviction, and sentence need not exceed a week; that ample provision existed for the safe custody of criminals; and that so far from there being laxity in the execution of the laws and the administration of justice, the courts were straining every nerve to dispose of the criminal business of the county. It is morally certain that if the Vigilance Committee had surrendered Stuart to the officers of the law when his guilt was established by confession or evidence his fate would have been the same, and the society would have felt a sense of security from the triumph of law which the violence of popular indignation can never impart to it; or had it turned out that the confession was extorted by fear, and the evidence did not justify conviction, the result would have vindicated the justice of a public and impartial trial by a jury of unprejudiced men, and exhibited the danger to which innocence is exposed by secret trials and sudden executions. The right of defence, the opportunity of employing counsel and summoning witnesses, which the law gives to the accused, is a shield for the protection of innocence, and implies no sympathy with guilt. The annals of jurisprudence in all countries and in all times demonstrate the necessity of that security to the maintenance of right, and that where it does not exist the weak and simple-minded are exposed to be made responsible for the crimes of the wicked and the strong. If the state of society in California demands the existence of a committee of vigilance,

the action of that body should be in coöperation with the officers of justice. Acting in defiance of the law, it perpetrates abuses more dangerous than those which it seeks to remedy. The defenders of this association point to its rapid increase in numbers as an evidence of its popularity. No wonder that people aspire to enroll themselves on its lists. Who would not rather be the master than the slave? It is the supreme power in the state. Its control is unlimited. Life, liberty, property, and reputation are at its mercy. In the language of the local judiciary, it overrides the laws and sets the constitution at defiance. Its organization is extending itself by branches throughout the whole of California. At the last advices, placing full confidence in the accusations of a murderer and villain whom it had just put to death for his crimes, it was scouring the state to secure the persons of those who were so unfortunate as to be obnoxious to his denunciations. Its usurpation has no limit in extent of power, and it may be that its limit of duration may be determined only when it arrives at a pitch of insolence that calls for action in virtue of the federal constitution, which makes it the duty of the United States to guarantee to every state in this Union a republican form of government."

The New York *Atlas* observes:

"It seems that the civil commotions which have recently excited and agitated San Francisco and the state generally have had the effect of crowding the steamers with passengers for the Atlantic portion of the Union. These men have become alarmed at the dangers which of late have beset lives and property on all sides, and have in consequence made up their minds to bid adieu to the Eureka state. But we think they have acted hastily in this matter, and that they regretted it ere they reached our shores. The convicts, who have succeeded by their daring crimes in spreading consternation among the honest portion of the community, will be expelled from the country or suspended between heaven and earth in due time, when order will again reign in California. In place of those who return others will emigrate from the older states who will take advantage of the opening thus made for new enterprise and new men. These men will reap the benefits which would have fallen to the older settlers who leave the country. While all this is going on, California will rise as rapidly in the path of her destiny as though nothing had taken place within her borders. In less than five years this young sister of our confederacy of republics will rival any state in the Union in most of the elements of greatness and prosperity."

In the *Asmonean* of the 15th of August is written:

"The most prominent feature of the California news is the firm establishment of the supreme authority of Judge Lynch. We who are bitter opponents of capital punishment in civilized communities deeply lament this terrible state of affairs, but considering that California is overrun not only by the convicts of Botany Bay and Norfolk Island, but by the most desperate and lawless villains from every nation under the sun, cannot but admit that

the summary execution of the judgments of the Vigilance Committee are absolutely necessary for the maintenance of the supremacy of the rights of life and property. Society in California, disorganized by this vast accession of marauders of every type and grade, becomes resolved into its first elements, when association or combination of the well disposed to repress by stern, terrific, and rapid punishment the acts of the wrong-doer is not only justifiable but praiseworthy, and the men deserving of commendation who stand in the gap to brave the senseless odium cast upon them by those who cannot or will not see the abyss into which the community is plunged by the folly and imbecility of the administration of the law, or the laxity of the police regulations. It would be violent, mischievous, nay infamous conduct, to assemble *en masse* in the state of New York and override the civic and state authorities, to apprehend, try, and punish criminals ere the sun had set on the day on which the offence had been committed, for New York has all the appliances of an efficient force to protect her citizens; California has nothing approaching the same. She has named her authorities, but they have yet to gather the firmness necessary to make her laws efficient and respected. The position of affairs is to be deplored, not to be wondered at. There are hosts of men there who would not willingly hurt a worm; but when the incendiary and the murderer openly contemn the rights of property and the value of life, their knowledge of the duties they owe to themselves, their families, and to the moral dignity of the great Union of which they are a portion, compel them to stand forth in the breach, and declare in the name of religion and law that by the unrelenting hand of justice they will vindicate the outrages of the outlaw."

Says the New York *Express* of the 10th of October:

"The details of the later intelligence we publish this morning from California are of a character not very pleasing, certainly, to contemplate. The Vigilance Committee in San Francisco have again had occasion to demonstrate to the world that though California has on her statute-books laws as salutary and stringent as the oldest and best governed states in this Union, she has nobody with moral courage or honesty enough to have them executed. The Committee does its work of death with a systematic celerity which shows how excellent an executioner it is become from long practice. We had indulged the hope that, for the credit not of California alone, but of our common country, those terrible scenes in Sacramento and San Francisco would not be reënacted. The news in our columns this morning shows how sadly we are disappointed. The victims appear from their own statements to have been miscreants of the most abandoned character, pardoned convicts from Botany Bay, who had served a long apprenticeship to crime before entering upon their career in California."

The Buffalo *Express* offers the following pertinent remarks:

"Lynch law upon the shores of the Pacific we take to be nothing more or

less than the expression of an earnest demand for prompt, certain, and effective justice upon wrong-doers. It pierces through the hindrances, uncertainties, and weaknesses of the British common law, and comes right to its point, inexorable as logic, and prompt to a finish. What need of alarm at the sight? At the worst, an unconstituted authority deposes the constituted authorities, and taking cognizance of offences against the laws, punishes them in a fashion not provided for in the criminal code. But when it is borne in mind that the act is done by the representatives of the entire society; that this new and summary justice is executed by those who make laws, and who appoint the executors of laws; that it emanates from a power that is behind the law and above the law, as the creator is above the creature, from a power that is the source of civil justice at the same time that it is the life of the state and the state itself, we may dismiss all apprehension for the result. California will be purer and stronger for its suspension of the constituted forms of criminal justice by the code of Lynch. But we have somewhat to do with the action of our golden-locked young sister upon the Pacific waters. From the vigorous, sensible, active state of California comes to the older states a hint and a suggestion that they would do well to heed. She demands a system of summary justice upon evil-doers. That is the upshot and final result of her lynch law, that is all there is of it. She proclaims herself tired to death of the uncertain, tedious, and inefficient processes of British law to punish and prevent crimes against civil society. Rising superior to the whining nonsense of a philosophy that discovers only misfortune in crime, and finds in every villain a brother, she with good sharp sense says that the incendiary and robber are unfit to live, that they are the sworn foes of a good society, and that she will have nothing whatever to do with them except to ascertain their true character beyond a doubt, and then to string them up to the nearest tree. The reasons which impel her to this determination are conclusive. She cannot avoid them, for arson and robbery defeat the whole object of life in California. That life is transient. Its objects are as a general thing temporary. They must be speedily accomplished. The citizens of that state mostly go there to get gold, designing not to remain there, but to return to their homes in the east as soon as they shall have got what they want. This as a general thing is their single business. Now to a man who has gone ten thousand miles away from his wife and his children on this eager and feverish errand, and who has submitted to cold, hunger, weariness, and sickness to accomplish it, what is the essence of the offence of robbery? What to him is the broad-backed lusty ruffian from Botany Bay who comes upon the sleeping miner in the dark to snatch away the fruits of his labor and the reward of his sufferings? An unendurable nuisance, as unendurable as fatal poisons, as untamable beasts, something to be got rid of and abolished instantly. The emigrants to California do not go there to establish society, and perfect civil and social character. They go there to get gold. They have no time to spend in theories of punishment, none upon prison discipline: just as little time have they to wait upon the crawling progress of justice pursuing the criminal through a court of common law. Were the quarter sessions of New York established upon the Yuba, with its adjournments on account of the heat, adjournments to let a lawyer get over a headache, adjournments upon all sorts of lying affidavits introduced to cheat justice

and to screen scoundrels, we should consider its judgeship a very unsafe berth, and should tremble for the gentlemen who practised at its bar. What a nuisance the court would be, and how near to the truth would be the public judgment that the lawyers who conducted defences there upon the New York city model were the aiders and abettors of rascals, hinderers of right and aggravators of evil. The people of California are in an intense hurry; their wealth is in the most condensed and portable form. A robber carrying off in his hands the spoils of five minutes' work bears away a fortune for most men, and instantly beggars his victim. The case is extraordinary all around; it calls for extraordinary remedies, and it gets them. These, too, are efficacious. A thousandfold better for the best men of the country to band together justly but inexorably for the suppression of crime, to do it forthwith, spontaneously as it were, than to threaten a modification of the laws at the next session of the legislature and to stimulate a district attorney to an uncommon shedding of ink. The felons from Sydney and the outlaws of the Mississippi Valley would gorge themselves with gold while dilettanti and formalists were drafting acts to make felonies capital offences, and were checking off upon the almanac the laggard days that separated them from their next legislature. Our condition at the east is not that of California. Our society is measurably settled; we are not in a hurry; we have time to reflect and time to act. But it behooves us to think if we cannot with great profit infuse into our present criminal processes a portion of California energy and California certainty; to see if we cannot with very great advantage incorporate into our theory of punishment a portion of the California maxim, that a healthy, well fed, vigorous criminal is without excuse; that to let a lawyer shelter him under the plea of lunacy, or on the ground of an omission to dot some legal *i* or cross some common-law *t*, is on the part of the public a very costly stupidity, to see if our recent mawkish sympathy with lusty wrong-doers has not engendered crime, and hurt the sense of right and wrong throughout our entire society."

The solid men of Boston, of whom there were many in the Committee, found their action in the main fully sustained by their home journals. For instance, the Boston *Journal* remarks:

"To us, residing in the most perfect security under the operation of good laws, faithfully administered, such proceedings seem violent and perhaps unjustifiable. We cannot bring ourselves to believe that lynch law is necessary under any circumstances in a community where the people live under a code of laws of their own framing, administered by officers who are responsible to public opinion for their acts. But we are free to say that if ever the occasion justified the application of lynch law, the recent affair in San Francisco is justifiable. Such is the condition of society in California that there is no security for life or property in the regular operation of the laws. Venality and bribery have crept into the administration of justice and shaken all confidence in the majesty of the laws. Under these circumstances who will unhesitatingly assert that a scene so terrible as that enacted in Portsmouth Square will not exert a salutary influence?"

And thus the *Olive Branch:*

"Taking into consideration that forty or fifty persons were burned to death, and seven millions of dollars' worth of property was lost by the late incendiary fire, that attempts have been made a dozen times since to fire the city, that citizens are attacked with slung-shots in their very stores, in the face of day, it is not surprising that respectable citizens and property-holders should do something to protect themselves from these gangs of organized robbers and banditti."

The Troy *Post* says:

"The news from California by the *Brother Jonathan* presents a frightful picture of the state of society in that golden state. Judge Lynch, at the last accounts, exercised supreme sway in all departments of the government; and when we look at the rampant and reckless attitude of the perpetrators of arson, robbery, and other crimes, we are almost forced to acknowledge that the sway of the judge is needed to make head against the surging flood of villainy that threatens almost to annex the new state to the infernal regions."

The Richmond *Enquirer* remarks:

"The most prominent event in the California papers is the execution of a robber by a committee of vigilance, which has caused very great excitement, as the verdict of the coroner's jury which sat upon the body was considered to reflect invidiously upon the conduct of this committee."

Says the editor of the New York *Sun:*

"We deeply regret the occurrence of a case of lynch law in the city of San Francisco. At this distance from the scene we can form no proper idea of the feelings excited on the part of the citizens of San Francisco by the high hand with which the depraved and dissolute outraged life and property. While we cannot approve the fearful act we would not say that it was done without strong provoking causes. We had thought that the recent elections would secure to San Francisco a more prompt and efficient administration of the laws, but it would seem that there has been but slight, if any, change for the better."

The Albany *Argus* thinks:

"There must be extraordinary laxity in the administration of criminal justice in San Francisco, and a still more extraordinary degree of depravity among its population, to require the voluntary organization of such bodies as the vigilance committee, with such summary and terrible powers as were exercised in the case of Jenkins. Both must have existed in a degree never before known in a civilized community to excuse such means to correct abuses or to punish crime."

The Boston *Mail* comments as follows:

"The terrible conflagrations which have destroyed so much property and several valuable lives are believed to be the work of these daring and des-

perate men; and when it is known that the laws have proved totally insufficient to repress or check these outrages; that robbery, theft, and arson were on the increase despite all the efforts of the constabulary force, is it strange that the people of San Francisco should have felt the desperate necessity of making a demonstration outside of the courts of justice that should carry dismay into the hearts of those who were preying upon society and setting the statute laws at defiance? The people of Vicksburgh several years since thought they saw a similar necessity in the violent extirpation of gamblers; and although their action in the matter brought down upon them the most violent denunciations, it was undoubtedly the salvation of the town."

The New York *Sunday Times* thinks:

"The execution of Jenkins was of course a murder in the eye of the law, and the punishment was moreover disproportioned to the crime; and yet, taking all the circumstances into consideration, we can scarcely call the deed unjustifiable. Where the law is powerless to protect a community, it must protect itself; but we should be sorry to be one of a community so situated."

The Portland *Transcript* sides with the Committee:

"This is the first execution which ever took place in San Francisco, where more crime has been committed in the past year than in any other city of the same population in the Union, without one single instance of adequate punishment."

The remarks of the Albany *Knickerbocker* are at once sensible and true:

"The news from California, though startling, is not unexpected. The laxity with which justice is administered on the Pacific has given vice almost a license for its depredations. Where prisons are scarce and villains plenty, the law, to be beneficial, should be prompt and decisive. The slow form and special pleading which may be tolerated in this and other older states are not adapted to the wants and safety of such a people as make up the inhabitants of California. That rascals should be hanged by the populace is to be regretted—it is still more so to be regretted, however, that the inaction of the courts and police render such hanging necessary. Whether Jenkins was legally put to death is not of so much moment as whether he was justly put to death. For over a year San Francisco has been overrun by bands of desperadoes from Sydney and other English penal colonies, villains who have so reduced the price of life and property that heads and houses in California are of but little more value than pebbles. Since 1849 San Francisco has been burnt over some four or five times, and each time by incendiaries. Since 1849 over five hundred robberies and twenty murders have been perpetrated in that city; and yet, notwithstanding this frequency of crime and outrage, the first man ever brought to the gallows in San Francisco was the outlaw Jenkins who was executed on the 10th of June. If the action of the people is to be

regretted, it is only because they did not move earlier. Had Withers, Daniels, Windred, and Watkins been promptly tried and executed when they perpetrated their villainies, the necessity for lynching Jenkins would never have arisen. To delay justice is almost as bad as to deny it. With such a population as we find in San Francisco the tardy and corrupt movements connected with the good old way of meting out punishment for crime is no more calculated to bring about a reformation than would the reading of the forty-second psalm. The action which the people have taken they were forced to take. By no other means could they impress upon the rogues which surround them the wholesome knowledge that vice is a short-lived accomplishment, and that the only way to meet with public toleration is to give up public plundering. The position occupied by the Committee of Safety is not only a necessary but a bold one. As they have placed themselves in opposition to the courts, their action will probably lead to a collision. We shall await the next arrival with some anxiety."

By far the most candid and correct view of the matter is that of the New York *Tribune*, which on the 26th of July says:

"The summary proceedings of the San Francisco Committee of Vigilance in the trial, condemnation, and execution of the thief Jenkins are not to be regarded in the light of an ordinary riot, much less as an example of hostility to the established laws heralding disorganization and anarchy. Seen from the proper point of view it is a manifestation, violent, it is true, of that spirit of order which created the state of California; and while we regret the causes which induced it, our faith in the integrity of those who perpetrated it is no wise weakened. There is no denying now that the laws of the state in their present operation are inadequate to protect the lives and property of her citizens. The amount of crime has fearfully increased during the last few months, and the existence of an organized band of desperadoes, covering a large portion of the country, has been ascertained. After seeing the fairest part of the city laid in ashes by the hand of an incendiary, and the escape through some quibble of the law of the culprit who attempted to repeat that dreadful visitation, it is not to be wondered that the merchants of San Francisco should take the administration of justice into their own hands. The names attached to the declaration of the Committee of Vigilance are those of the most orderly and influential citizens of the place, men who would not rashly venture on so hazardous a course or lightly assume so awful a responsibility. San Francisco, therefore, presents the singular spectacle of a community governed by two powers, each of which is separate and distinct from the other. They cannot come in conflict, since there is no aggressive movement against the law on the part of the Committee and no attempt on the part of the regular authorities to interfere with the action of the latter. Public opinion universally upholds the course pursued by the Committee. This course, under the circumstances, cannot be called mob law or lynch law in the common acceptation of the term. It more nearly resembles the martial law which prevails during a state of siege. It has been suggested by the presence of a danger which the ordinary

course of law seemed inadequate to meet. Life and property must be protected at all hazards; the country is at the mercy of as vile a horde of outcasts as the sun ever shone upon; and nothing but the most prompt and relentless justice will give us security. These are probably the sentiments of nine tenths of the citizens of California. At this distance we will not venture to judge whether the circumstances demand so merciless a code; but we are sufficiently familiar with the character of the men composing the Committee of Vigilance to acquit them of any other motive than that of maintaining public order and individual security. We believe they will exercise the power they have assumed no longer than is absolutely necessary to subserve those ends, and that their willing submission to the authority of the law, when the law shall be competent to protect them, will add another chapter to the marvellous history of their state. In spite of these violent exhibitions of popular sentiment, the instinct of order, the capacity for self-government is manifested more strongly in California at this moment than in any part of the world."

And again:

"The California news by the *Prometheus* has a strange and solemn interest. To those who have traced the history of our first Pacific state through all the marvellous phases of its short existence, the present time assumes the nature of a crisis, in which order and anarchy, violence and security are struggling for the mastery. On the one hand we have a sickening succession of murders, robberies, and incendiary fires; on the other a rapidly increasing list of trials, condemnations, and executions, perpetrated with relentless severity by the summary action of the people. To those who are unacquainted with the difficulties under which California has labored ever since the adoption of her state constitution the latter alternative may appear even more terrible than the former; and a course dictated in fact by the most awful necessity which can be imposed upon any community may seem little else than the lawless outbreak of unbridled popular passion. We have been somewhat sharply taken to task by some of our contemporaries for justifying the motives of the San Francisco Committee of Vigilance, and the members of the Committee themselves have been made the subject of violent denunciation; yet every successive arrival from California proves more clearly the justice of what we first asserted, that the lynch law now in operation is not mob law, but the result of a universal sentiment of order, a conscientious belief that it cannot be obtained by trusting to the regular authorities, and a sense of danger which impelled them to immediate action. We have professed our inability to judge at this distance whether other means might not have been employed to enforce the laws, avoiding a course which must be always hazardous to the future peace of society, even when the sternest exigency compels it. The disclosures which we publish to-day show clearly the reality of the dangers to which the Californians were exposed; they show how nearly hopeless was the reliance to be placed on the ordinary operation of law. So far as the evidence goes they prove at least that there have been sufficient reasons for the action of the Committee of Vigilance to exonerate them from the violent charges which have been made against them on this side of the continent."

Thus speaks the Boston *Traveller:*

"The fact that San Francisco is so overrun with lawless and desperate villains is sufficiently painful and alarming; but it is by no means the most alarming and painful fact communicated in the letter. We confess that we view with the utmost alarm a state of general morals which will allow, much less sanction, such an organization as that alluded to. It indicates an utter vitiation and corruption of the public functionaries of the city, and a general contempt for the administrators of the law, which is totally inconsistent with the idea that anything like a well ordered government exists in the country. Sure we are that if there is any such thing as law in San Francisco, and if there are men whose business it is to administer this law, the course adopted by this 'organization of citizens' must tend most directly to break down this law and to render powerless these officers of justice. If this organization can be sustained there is in fact an end to civil government."

And thus the New York *Commercial Advertiser* concludes a long article adverse to the vigilance movement:

"Had the Committee confined themselves to operating upon the ministers of the law, either by aiding and supporting them if they were willing to enforce the law, or by bringing such a combined public opinion to bear upon them that they would be compelled to act promptly and impartially, they would have done wisely and well: the effect would have been immediate and perpetual, and the triumph of the great principle of self-government under the restraints of law would have been complete. Very different is the case now. However much the Committee may hereafter desire it, they cannot heal the wounded honor of the defied law. They cannot at will raise its prostrate form, and reanimate it with authority and power. The Vigilance Committee may make itself feared, but it will be at an expense of popular respect and homage to the law. Moreover, a counter-vigilance committee would be quite as legal as that now existing, and might make itself as terrible. Nor is it improbable that such an organization will spring up, if every man who steals a bag of money, in the present case recovered by his pursuers, or commits any felony is to be secretly condemned to death. A vigilance committee acting with such glaring illegality, and openly avowing it without shame, may go to greater lengths of tyranny, thus provoking counter-organizations; and where will the end be? If there is, as cannot be doubted, necessity in San Francisco for organization for self-protection on the part of the citizens, let it be done, not in defiance of established law, but under its sanction. Let respectable citizens protect themselves and their property by existing law, or by amending the laws if they need amendment. Any other mode of protection must result in anarchy and ruin."

In reply to the *Advertiser*, the San Francisco *Herald*

comes out in one of the most able editorials found in any journal upon this question:

"Among the newspapers of New York some are constantly progressive, some moderately conservative, and others possessed with a morbid conviction that unless they act as drags upon the onward movement of reform the wheels of society will go off the track and general desolation be the melancholy consequence. The hindmost of these is the *Commercial Advertiser*, a very respectable paper in its way, but never holding an opinion that anybody else holds, and fifty years behind the age, at least. If it can be regarded as the representative of any class, it is of those who hold virtue to consist in not picking pockets or otherwise rendering themselves amenable to the law, who regard money-bags as a divinity to be worshipped with their whole soul, and who worship them accordingly, with sanctimonious and grave propriety, at eleven o'clock every Sunday in the gilded and cushioned pews of Trinity or Grace. That such a paper should comprehend the difficulties, the necessities, the bitter experiences, of San Francisco is not of course to be expected; but the people of this city had a right to anticipate that it would content itself with expressing that opinion which was consonant with its antiquated, dull, and somewhat perverted instincts, without descending to absolute misrepresentation in regard to the scenes which took place in this city after the execution of the man Jenkins. Touching the acts of the Vigilance Committee, the object of their organization, the extraordinary system of police which under their auspices sprung into existence with most magical celerity all over the land, the wonderful completeness with which they have carried into execution everything they attempted from the beginning, the unerring certainty with which they pounced upon the worst characters in the community, without ever making a single mistake in regard to those whom they arrested and punished, their prudence and moderation in avoiding all difficulty or conflict with the officers of the law, and the triumphant success of their efforts to suppress crime in this city, we have already spoken many times. Their whole acts may be summed up in this, that after a fair trial, and on full evidence of guilt, they exterminated four men whose hands were stained with many and terrible crimes, and who had maintained an incessant war upon society in California; and further, that they have driven back whence they came several others, convicts from the British colonies, who also warred upon the community, but whose criminality was not so grave or so apparent as to deserve death. No innocent man has suffered death or exile at their hands, and the persons whom they have punished would have suffered equally had not the courts been inefficient or the laws powerless. So much, briefly, for the result of the Committee's labors. The *Commercial*, after stigmatizing as demoralizing, dehumanizing, and otherwise objectionable, the execution of Jenkins, traces to the agency of the Vigilance Committee the rush of the crowd at the city hall to lynch Lewis for arson, and the scenes enacted in the tumultuary assemblages on the plaza on the two days subsequent to the first execution. In neither of these proceedings did the Committee interfere in any manner. Several of the members were present at the city hall during

the excitement about Lewis, but quite as many were opposed to the spirit of violence manifested on that occasion as in its favor. The Committee did not participate in the attempt, nor did they contribute to the excitement. Again, in the meetings held on the plaza the Committee took no part. Those assemblages were without aim or object, and anything that took place might with as much propriety be attributed to the *Commercial* itself as to the Vigilance Committee. Nor can we, and we regret to say it, refrain from believing that the charge of instrumentality on the part of the Committee in these rows, if we may so call them, has been made by that journal with malice; for in no California paper can we find aught tending to identify the Committee with these acts. The simple circumstance that Mr Brannan, a member of the body, was called upon to address the crowd is too frivolous as testimony on which to ground such a charge for a journal so serious in its character as the *Commercial*. But is not this holy horror at a crowd assembled in San Francisco through a wish to see justice dealt to a person deemed guilty of an attempt to fire the city, after two thirds of it had been already consumed, together with twenty or more valuable lives, is not this holy horror somewhat pharisaical?

"'The flesh will quiver when the pincers tear—
The blood will follow where the knife is driven.'

"And will not people complain and act when driven to the verge of despair, and heart-sick from the loss of property, and home, and friends, and even of all prospect of recuperation? We recollect being in New York some years ago, when on a certain Saturday night a young man named John C. Colt sat in the dock of the criminal court awaiting the decision of the jury, who had retired to an adjoining room to consult whether he should live or die. Through the open windows came the roar of an excited multitude, whose loud and menacing voices penetrated even the jury-room, demanding the blood of the accused. That crowd was composed of men and women, and till four o'clock on Sunday morning that hoarse cry still went up demanding blood. This happened in New York, where the *Commercial* has been established we know not how many years, and where they have their Grace Church and Trinity Church, their pews, preachers, and police, their courts, officers, and laws, on the most approved system a lengthened experience has been able to shape. We do not remember that the circumstance called forth from that journal any unusual expression of displeasure; but there is no measure to its indignation when a crowd of some few hundred persons in San Francisco make a harmless demonstration of anger and excitement against a man who, if guilty, was tenfold more criminal than Colt. We rejoice that so few of the Atlantic papers have followed the example of the *Commercial*. Some three or four indeed, through spleen or stupidity, seize the occasion to read us a lecture on our lawlessness, forgetting or ignoring the fact that we have been lawless, that is without the benefit of law, since we first arrived. It is most gratifying to perceive, however, that a large majority of the journals in the states take a liberal and enlightened view of our difficulties, and exhibit a candid appreciation of the stern necessity that impelled our citizens to uphold the laws by enforcing their execution."

While certain journals were thus raising a great outcry against the conduct of the people of California in carrying into execution measures for the protection of life and property, within fifty miles of New York's capital were acted scenes dastardly beside the wildest lawlessness in California. Says one:

"The anti-renters in this state are getting troublesome again. A few nights since a number of them, disguised as Indians, surrounded the house of a man named Shaw, who had served process on one of them under direction of the sheriff of Rensselaer county. They took him out of bed, carried him a distance of a mile, and then tarred and feathered him. One would have supposed that his age, seventy years, would have saved him from such indignity, but it did not. Governor Hunt offers a reward of $500 to any of the participants in the outrage, to the number of five, who will inform on the others."

Commenting on the above, the New York *Mirror* remarks:

"The *Alta California*, which has been compelled to follow the example of the *Mirror* and come out double occasionally, contains full particulars of the lawless state of society in San Francisco, and, we regret to see, vindicates the resort to mob law. We took up our pen to combat the fallacies of the editor; but then we thought of the anti-rent outrages in our own state, and concluded to drop the subject. It is not two weeks since an old man of seventy was mobbed in attempting to serve a process in the state of New York, and Governor Hunt has not called out the police or the military to arrest the rebels!"

Even in staid communities it is impossible always to crush immutable truth and justice beneath dead forms of law,—instance a case tried about this time which occurred at the Old Bailey in London, Lord Chief Justice Tindal presiding:

George Hammond, a portrait painter, was placed at the bar, to be tried on an indictment found against him by the grand jury for the wilful murder, with malice aforethought, of George Baldwin, a rope-dancer and mountebank. The prisoner was a man of middle height but slender form; his eyes were blue and mild. His whole being gave evidence of subdued sadness and melancholy resignation. He was forty-one years of age; he had a soft voice, and his manner and appearance bore testimony of his being a man of

feeling and refinement in spite of the poverty of his dress. On being called on to plead, the prisoner admitted that he did kill Baldwin, and he deplored the act, adding, however, on his soul and conscience he did not believe himself to be guilty. Thereupon a jury was impanelled to try the prisoner. The indictment was then read to the jury, and, the act of killing being admitted, the government rested their case and the prisoner was called upon for his defence. The prisoner then addressed himself to the court and jury: "My lord," said he, "my justification is to be found in a recital of the facts. Three years ago I lost a daughter, then four years of age, the sole memorial of a beloved wife, whom it pleased God to recall to himself. I lost my child; but I did not see her die. She was an angel, and beside her I had nobody in the world to love. Gentlemen, what I have suffered cannot be described; you cannot comprehend it. I expended in advertising and fruitless search everything I possessed, furniture, pictures, and even my clothes. All have been sold. For three years, on foot, I have sought my child in all the cities and all the villages of the three kingdoms. As soon as by painting portraits I had succeeded in gaining a little money, I returned to recommence my advertisements in the newspapers. At length on Friday, the 14th of April last, I crossed the Smithfield cattle market. In the centre of the market a troupe of mountebanks were performing their feats. Among them a child was turning on its head, its legs in the air, and its head supported by a halbert. A ray from the soul of its mother must have penetrated my own for me to have recognized my child in that condition. It was, indeed, my poor child. Her mother would have clasped her to her heart had she been there. As for me, a veil passed over my eyes. I threw myself upon the chief of the rope-dancers. I knew not how it was; I, habitually gentle, even to weakness, seized him by the clothes; I raised him in

the air and dashed him to the ground. Then again. He was dead. Afterward I repeated what I had done. At that moment I regretted that I was only able to kill but one."

"These are not Christian sentiments," replied the chief justice; "how can you expect the court and jury to look with favor on your defence, or God to pardon you, if you cannot forgive?"

"I know, my lord," continued the prisoner, "what will be your judgment and that of the jury; but God has already pardoned me; I feel it in my heart. You know not, I knew not then, the full extent of the evil that man had done. When some compassionate people brought me my daughter in my prison she was no longer my child; she was no longer pure and angelic as formerly; she was corrupted, body and soul; her manner, her language, infamous like those of the people with whom she had been living. She did not recognize me, and I no longer recognized her myself. Do you comprehend me now? That man had robbed me of the love and soul of my child; and I have killed him but once."

The foreman now spoke: "My lord, we have agreed on our verdict."

"I understand you, gentlemen," answered the chief justice, "but the law must take its course; I must sum up the case, and then you will retire to deliberate." The chief justice having summed up the case, the jury retired, and in an instant after returned into the court with a verdict of "Not guilty."

On the discharge of Hammond the sheriff was obliged to surround him with an escort. The crowd of women and men was immense. The women were determined to carry him off in triumph. The crowd followed him all the way to his lodgings, with deafening shouts and huzzas.

CHAPTER XXVIII.

EXTENSION OF THE VIGILANCE PRINCIPLE.

In my mind, he was guilty of no error, he was chargeable with no exaggeration, he was betrayed by his fancy into no metaphor, who once said, that all we see about us, kings, lords, and commons, the whole machinery of the state, all the apparatus of the system and its varied workings, end in simply bringing twelve good men into a box.

Lord Brougham.

PLATO, in his *Republic*, defines justice as "the interest of the stronger;" and however much of sophistry lies hidden in the sentiment, we find practically that it is very near the truth. The stronger will have their way, and if their way be not right or just, they will not long be the stronger. As a matter of course, by the stronger is meant not that element of the nation which may be momentarily uppermost, or which may happen to have another element at a disadvantage, but the inherent and permanent dominating strength that underlies all the vital activities of a people.

In American politics we see strikingly illustrated this self-regulating principle. Corruption is inseparable from our form of government. The system of short terms and rotation in office offers a standing reward for neglect and peculation. Political parties are essential to this system, not from the principles advocated, for the principles of either are good enough if well carried out, and there is little to choose between them, but from the necessity of keeping the pool stirred in order to prevent stagnation. The party in power must be driven out, or the certain corruption soon becomes unendurable; and so in this tread-mill,

fashion, we must go on from one election to another, with a reform party ever at the heels of the party in office, the paramount object of the one to come within reach of power, and of the other to make the most of opportunity. But neither in parties nor politics lies the strength of the commonwealth. If it were so, God pity us! There the interest of the stronger has nothing to do with justice. It is the people, not the politicians, in whose interests lies justice; it is the people, not the politicians, in whom lies the nation's strength.

Our government is weak because the people are strong. But because a weak government is the kind that suits us best does not necessarily imply that we are best ruled by weak men, even though we seldom choose others. Because a monarchy is the strongest of governments, and an aristocracy the wisest, does not imply that we should change our republican form for another. To do so would be retrograde; yet we might safely enough give up part of our ignorance and weakness. The maxim that the king can do no wrong has in our day become literally true, for now the sovereign can do nothing except that which his ministers and parliament permit him to do. Inherent in power is decay. And unless the government is constantly refreshed by a cleansing stream flowing in from the people, it soon becomes rotten. Therefore reform the units of society if you would reform society. Wickedness in rulers is the correlative of wickedness in the people.

Compare the laws of evolution as applied to government with the behavior of the mixed population of California when left without government, and we find the two in perfect accord. Society as a whole cannot act or even exist except through the agency of some sort of influence enforcing obedience. There are two kinds of laws which underlie society, natural law and artificial law; one arises from necessities common to all mankind, and the other waits on

fashion. The social state evolved from the domestic state implies property, marital relations, laws, and general government.

As among primitive peoples, so among the California miners, we see a state without laws, aggregations of men without government, each absolutely free, free in thought and action, so far as he himself is concerned; but let him beware how he touches another. Never did danger so attend wrong-doing: "I caught this fellow stealing my mules, and I shot him," was found written on paper pinned to the breast of a dead body lying by the roadside in 1853.

In the absence of written law speechless sentiment becomes a power keener, stronger, and more merciless than any of which man stands in awe. The laws of God and the laws of man combined are puny in their efforts at curbing the passions of wilful man as compared with the opinion of his neighbor. Give a man the sympathy of the community in which he lives, and the law cannot hurt him; and, on the other hand, let him be anathema of his fellows, and no law can save him from their vengeance.

Keenly alive and jealously sensitive are the rights of individuals and of aggregations of individuals when intrusted to their own keeping. Every man has a watch on every other man. In the absence of legal and judicial professionals, or later, in their inanity, every member of the community was sheriff, judge, and executioner.

Hence it was these miners walked circumspectly among themselves, each coveting the good opinion of his neighbor, each at once servant and master of all. To this end they purified their own motives while purging their camp of crime. And to do right, one must feel right. Right feeling begets right action. The man is surely an adept who can be one thing and throughout his life act another, who can wholly subserve emotion to cognition, and cognition to reason. Laws will not frighten men into right doing; rewards

will not entice them. A society perfect in thought and feeling needs no laws for its regulation.

Furthermore, as in primitive communities despotism, feudal, oligarchical, or monarchical, for a time holds rule, showing the necessity of placing under restraint progressive man, so here we find a despotism of democracy. In the absence of visible forms of law there was the essence of law everywhere; just as in the progress of civilization when men arise and throw off superstition and despotism they only rivet the chains of social tyranny the tighter.

Therefore we may conclude that, properly regarded, all the mad pranks of these miners, all the social abnormities that obtained along the Sierra Foothills during the gold-gathering epoch, may be safely referred to sociological principles; just as all natural phenomena as soon as understood are found to be governed by fixed laws, when if not understood they are regarded as the results of supernatural causes. Men pray for rain because the laws of storms are ill defined; they will not pray that a stone may be turned into bread, because they know that bread is not a geological formation. So the laws which govern social development, when understood, will be found in no wise to run counter to the free-will of man, if man has free-will.

During the flush times of California there were several phases of crime in the several parts of the country. In the cities were slung-shot strikers, housebreakers, wharf-rats who preyed upon sailors and shipping, pick-pockets, sneak-thieves, safe-robbers, gentlemen forgers, and first-class burglars. In the country there was more killing, that being the more effectual way of arresting pursuit; and as the penalty for stealing was the gibbet, no severer punishment could befall the murderer. Highwaymen at intervals infested the interior, and their organizations at times assumed magnificent proportions. Horse-thieves were thick in stock localities. Miners were murdered for

their money; a dead body beside a solitary claim was not an unusual sight; and often the thief was hanged while the murderer escaped. Then there was a large migratory class, who when one place became too hot went to another.

Following the example of San Francisco, popular tribunals were organized in every town of any importance throughout the state, and, as they became inhabited, in neighboring states. These were of every grade, and of every degree of efficiency. In the larger cities, such as Sacramento, Stockton, Marysville, Sonora, San José, and Los Angeles, were standing associations of the best citizens, which, though necessarily less in numbers, were wellnigh as complex in their organization, and fully as effective in their action, as the great committee of the commercial metropolis.

Indeed, these country committees, as a rule, had work enough to do. Though they were spared much of that kind of work incident to a seaport town, and to the prominence of the first and largest organization, yet in certain directions the labors of some of them exceeded those of the San Francisco Committee. There were fewer cases of exile in the country, but more executions. For every criminal execution by the Vigilance Committee of San Francisco there were at least twenty executions by the country committees—that is, including all of them in operation throughout the state. In one year, that of 1855, there were no less than forty-seven arbitrary executions in California; and of these, twenty-four were for theft, and nineteen for murder; the other four being for minor offences.

Thus in the larger interior cities the committees of vigilance ranked but little lower than the committee of San Francisco. Descending the scale, we have next those belonging to towns next in size and necessity, which did not keep up permanent organization, regular meetings, and active work, but which would

as occasion required come together, organize or reörganize, and, after performing the business which called them together, disband. These impromptu organizations were usually for the purpose of trying some criminal caught before the organization was effected. Then there were many still less formal, until mobocracy in its simplest and most repugnant form was reached.

In the organization of these various country committees there was no concerted action, no general appeal other than the publication of the following notice in the journals of the 10th to the 15th of June, at the time of the first organization of the Committee of 1851:

"To the Citizens of California:

"Should the order-loving portion of the citizens of Sacramento City, Stockton, the Pueblo de San José, Monterey, Marysville, and all other towns and cities of the state, find it necessary, they are invited to form themselves into committees of vigilance, for the purposes set forth in the constitution of the Committee of Vigilance of San Francisco. The object of these committees is, moreover, for the purpose of corresponding with each other, so as to be able to mark and notice the movements of all disorderly or suspicious characters. By vigilance we may succeed in driving from our midst those who have become so baneful and obnoxious to our communities."

Thereupon the course of the citizens of San Francisco was endorsed by mass meetings held in Sacramento, Stockton, and elsewhere.

In view of these facts; in view of their existence, their universality, and their spontaneity, it seems almost an insult to reason to argue their necessity or their righteousness. And yet there are those learned in the law who will tell you to-day that the thing was unnecessary, the principle wrong, and the members of these associations murderers. Strange that men fresh from the firesides of their boyhood, fresh from the hallowed influences of home and the restraints of sober society, should so invariably and unnecessarily demean themselves as to band as lawbreakers and murderers the moment they arrived at any point on the western slope of the continent!

As at San Francisco, so it was with these country committees of vigilance. Swift and merciless was their action; the most notorious villains were quickly judged and hanged, the lesser ones frightened away; and then, after having used with skill and moderation, and for the public good, the moral power which they had seized, they as promptly laid it down, gave California to the appointed authorities, and became at once and forever themselves the strictest observers of the law.

At various times during the epoch of 1851 and that of 1856 the question arose whether it was expedient to form of all the committees of the state one grand organization, with the San Francisco Committee as the trunk and the interior committees as the branches. Applications were frequently made by country committees to become a part of the San Francisco organization; meetings were held, and the subject at various times discussed.

But with their usual wisdom and discretion the San Francisco Committee declined all such combinations. While willing to act in perfect accord with all associations for the punishment and prevention of crime throughout the state, while earnestly desirous of giving and receiving every facility for the accomplishment of the purpose which called them into existence, the San Francisco Committee were unwilling to assume any responsibility which could not at any time be controlled within the walls of their own council-chamber. A general organization might have led to the wildest excesses in the more remote quarters and have made the central or parent committee responsible for deeds from the commission of which they would have shrunk with horror.

At an early day, long before the general uprising of 1851, in certain sections of the gold-fields the miners, more particularly the English-speaking class, and sometimes only citizens of the United States, met and adopted rules by which to be governed. These rules

governed the title to mining claims, and protection to life and property.

At the miners' meeting called for the purpose, an alcalde, or justice of the peace, and a constable were chosen, and an official oath administered by the chairman of the meeting. In civil actions before these courts the plaintiff or defendant could, either of them, call for six jurors to assist the judge, and in criminal cases the accused was entitled to a jury of twelve men. Process was issued by the alcalde and executed by the constable, or, as he was as frequently called, the sheriff. All proceedings conformed as nearly as might be to those of an ordinary court. Appeals could be made from this court in criminal cases only to the spectators at the time of execution, who were supposed to represent the people who gave the court its authority. It was simple, but extremely significant, this ultimate appeal of the condemned, the moment before his execution, to the highest earthly authority—a most solemn appeal, but too often lightly regarded by those to whom it was made.

Upon conviction in criminal cases tried before a jury the degree of punishment was fixed by the alcalde, and it might be death, for any offence. The juror's fee was six dollars for the case, and the alcalde's sixteen dollars. The witnesses and constable were also duly recompensed.

The miners' court had its origin prior to the advent of law. Upon the legislative establishment of courts, in most localities the miners' courts gave place to them, but not always. If the leading spirits of a mining-camp were satisfied with their own judicial machinery they would neither elect under the statutes nor permit others to do so. Miners' courts were not wholly abrogated till after 1854. More particularly was this the case in criminal trials, wherein the people were provoked by the tardiness of constitutional courts.

It was suggested by one that legal tribunals should be established in the cities and throughout the country

where justice could be instantly determined and executed; or extraordinary power might by special legislation be delegated the courts to act without the usual law's delay. Thus the chances of escape would be lessened and the cost diminished.

About midsummer, 1851, there was considerable discussion, principally among the law and order party, concerning the propriety of calling an extra session of the legislature for the purpose of so modifying the criminal code as to meet the requirements of the present social crisis. Such a movement on the part of the governor would have rendered him yet more unpopular. Aside from the expense, which for a ten days' session would have been about sixty thousand dollars, the result would have been productive of evil rather than of good. The disease was altogether beyond the reach of the physician, and further legislation would only have intensified the trouble. The law was well enough as it was; and further to complicate affairs by the propagation of yet more inefficient and corrupt officials was no way to cure crime. The people were taking care of themselves, and that in the simplest, most direct and honest method in the world—by making punishment to follow closely the heels of crime.

In 1850 statutes were enacted, and the people meanwhile administered justice by popular tribunals, or surrendered their claim to the execution of justice into the hands of the legally constituted tribunals. Now, thought they, we shall have quiet living; we may now pursue our several vocations in safety without the harassment of hunting and hanging criminals. But the people in their brighter prospect were not alone made happy. The thief, the election trickster, the murderer, these too rejoiced over a prospective reign of law, over an administration of pretended justice which should shield them from their mortal enemies, the people.

Following the great uprisings in San Francisco,

there was a general exodus of criminals to the interior. A San Francisco paper thus sounds the note of warning:

"The recent hanging and banishing of the friends and companions of these villains in San Francisco caused a stampede for the interior and southern portion of the state, where they formed themselves into organized banditti, robbing and murdering indiscriminately. Neither sex nor age were regarded by these desperate gangs of marauders. Patience at last ceased to be a virtue; the law was found to be inefficient to punish the bloody outrages which were daily being committed; the people in the lower counties, in Los Angeles, Monterey, San Luis Obispo, and later still in Carson Valley, have been obliged in self-defence to follow the example of San Francisco and mete out a summary but just punishment to all that fell into their hands.

"The result of such summary execution is that the desperadoes have concluded that California has become too warm for them, and they have determined to shift their quarters to the new gold regions north, where the people are not so united. In that comparatively unknown country they expect to have more facilities for carrying on their unholy business, and where there will be less chance of detection. As there will be no chance of these men being supported by political plunder in the country to which they have now gone, the more desperate and dangerous will they become. Their organization, it is now proved without a doubt, is complete throughout the coast; they have their secret signs, passwords, and grips, by which they are recognized. Their threats against the members of and sympathizers with the Vigilance Committee is no idle boast. That they will attempt outrages is beyond a doubt. Their friends and abettors in this city will keep them fully posted with the names and business views of all whom they consider will afford a good show of plunder, and murder will prove their safety against further recognition or detection; for, like Jack Powers and Pio Linares, their motto is, 'Dead men tell no tales.'

"Under these circumstances what is the duty of the good, law-abiding citizens who have settled or may settle in the new mines? As to law, there is none to be had there. If it were extended over them, none of that class of so-called politicians who readily become the friends and tools of the banditti would give up their prospect of making a 'pile' to fill offices of responsibility. Our advice is for the miners to organize themselves into armed companies, keep up a strict volunteer police, and administer justice whenever required, in a manner that will deter these villains from committing crime. To be forewarned is to be forearmed. Danger to life and property stares them in the face. Then let them be prepared to prevent it at the outset. The gamblers should be shunned and scouted by all honest men; the bully and the shoulder-striker should be admonished to keep quiet and earn an honest living, or prepare to take up his traps and march. The murderer and robber should be shown no mercy. At the first unmistakable conviction of such an offence the murderer should be hanged as high as Haman, and his body left to dangle as a warning to his companions in guilt.

"This summary proceeding may sound harsh to the ears of such persons

as have not witnessed the troubles in this state. We expect it will call forth a howl of indignation from the venal press in the interest of gamblers and thieves; but it will be disregarded as the whistling of the wind. Those who know the desperate character of these men, and are acquainted with their former vile deeds in this state, know full well that we recommend the only means which will afford safety to property and life in the unprotected country to which immigration is now pouring. Such organization of miners will also afford protection against the bold savages who inhabit the north, and who are hostile to the whites. To these savages will the desperadoes resort for protection and aid. It is the duty, therefore, of the miners to prepare for trouble. Punish the offenders promptly, and the lives of many honest and innocent men will be spared. Let them but get the start in crime, and many a happy home will be made desolate. The safety of all consists in prompt and decided action."

Throughout the interior, more than in the city, arbitrary administration of justice was regarded by the people with greater favor than the regular proceedings of courts. The institution of vigilance accorded with the spirit of the times. Its machinery was unimpeded by the friction of forms; its sentences were final and speedily executed. Then, too, it was more needed, if possible, in the country than in the cities. The people were more scattered, communities more isolated and self-dependent; they were more exposed, less capable of continuous and concerted action.

They had few jails, and thought that to stand guard over criminals captured by their own exertions and at their own expense was paying too much deference to crime; such procedure ill-accorded with their temper or means. Quick let the bad cease to be, and then each to his affairs.

So effectual were the workings of these organizations that, like all the institutions originating from the necessities of the times, the frontiersman began to like it, and to look upon it as a part of himself, his catechism, his country. After civilization had set its seal upon the town of Yankee Jim, a miner summoned as a juror in a murder case was asked by the judge if he had any conscientious scruples against capital punishment.

"Yes, your honor, I have," he replied; "that is, unless administered by a vigilance committee."

The modes of punishment were many and varied, being always such as should bring disgrace, and usually such as should attach humiliation and pain. Shooting was sometimes employed, but not often. Whipping and driving from camp were frequent; but the most common punishment was hanging. For what better purpose did the solitary oaks send out their long, ungainly branches? It was a simple process, throwing a rope over the limb of a tree and tying one end of it round the neck of the offender. The rabble would then seize the other end of the rope and run with it as far as the ascending body would permit. Mexicans were sometimes hanged from mules, standing on the back of the animal until the rope was adjusted, when the mule, frightened by blows and yells, jumped from under the victim, leaving him suspended. At the outset punishment was not so severe as later, when the executioners had become more accustomed to the workings of the system, and to scenes of blood.

CHAPTER XXIX.

COUNTRY COMMITTEES OF VIGILANCE.

Here is a mine of truth, which, however vigorously it may be worked, is likely to outlast our coal.

George Eliot.

Let us now examine some of the more dignified popular tribunals outside of San Francisco. It was almost simultaneously, as soon as people began to understand something of the nature of the organization of June 9, 1851, that similar associations were formed throughout the length and breadth of the land.

The Vigilance Committee of Sacramento was first formally created the 25th of June, about a fortnight after the organization of the first Vigilance Committee in San Francisco. Two hundred and thirteen members were enrolled at the first meeting, which was held at the Orleans Hotel, and thereafter the number rapidly increased. P. B. Cornwall was chosen president, and the executive committee consisted of Messrs Milne, Duryee, Rightmire, Watson, Latson, Chesley, Barker, Meeks, Leake, and Geiger.

Prior to this time, as we have seen, there had been several summary arrests and punishments of greater or less degree. But this was hardly sufficient, in view of the rapid development of events. When the best men of Sacramento saw what San Francisco was doing, saw the immediate good effects of their unique association, they obtained a copy of the constitution and by-laws of the San Francisco Committee and organized on the same plan.

In common with the entire country, the City of

the Plains was infected with the leprosy of crime; and as this landing was then the rendezvous for adventurers from San Francisco and elsewhere to the northern mines, rascality here partook at once of the character of that of the city and of the country. Thither resorted commercial, agricultural, and mining desperadoes; sailors and professionals from San Francisco, cattle-stealers and highway robbers from the valleys, and gamblers and murderers from the mines.

We will glance briefly at Sacramento's infelicities about this time. In April, 1851, Mr Lawrence, editor of the *Times and Transcript*, was attacked by certain political desperadoes then infesting the city. A manifesto was issued, and within an hour five hundred citizens pledged themselves, in writing, to protect Mr Lawrence, and any other members of the press, against which class villainy for the moment seemed directed.

On the 17th of July following, as Mr Lawrence was passing the court-house, J. Neely Johnson stepped up and demanded whether he was the author of a certain paragraph published in the *Times and Transcript* that morning, at which Johnson had taken offence. Not receiving a satisfactory reply, Johnson seized the journalist's nose and wrung it magisterially. Lawrence drew a pistol and would have fired had he not been disarmed by the by-standers. The reader must know that this was the same Johnson who afterward, as governor of California, was so horrified at the doings of the San Francisco Committee of 1856 that he was ready, had he been strong enough, to deluge the streets of the city in the blood of its best citizens. To avenge a personal injury he did not hesitate to defy the law; but when the people themselves, for the preservation of society, laid their hand on law it was sacrilege.

Four men were caught robbing a citizen of Sacramento on the 9th of July. The crime was perpetrated

in open day, in the suburbs of the city, and was witnessed by several persons. While the thieves were being taken before the court of sessions the Committee of Vigilance convened for deliberation, and a crowd of about one thousand persons collected before the station-house and attempted by force to obtain possession of the prisoners. A committee of three was then chosen to wait on the officers and request possession of the prisoners for hanging purposes. This request the limbs of the law very properly denied. Brought into court, the prisoners, by their counsel, insisted on the time allowed by law for the preparation of their defence, and the trial was consequently postponed. This delay caused great commotion among the crowd, and on putting the question to vote it was almost unanimously decided to hang the thieves that day. Seeing the ominous aspect of affairs, the prisoners' counsel consented to proceed to trial at once. All were convicted; one was ordered away to the state prison, and the others were sentenced to be hanged. This was the first attempt at interference with the regular process of law by the Sacramento Vigilance Committee, and the result speaks loudly their moderation.

About a week before this a man named Franklin Sanford, who had been arrested at Daylor's rancho, charged with shooting cattle and selling the meat, was with difficulty saved from the vengeance of the people. He was finally taken to Sacramento and bound over by Judge Sackett in three thousand dollars bonds.

It seemed impossible for the men of Sydney to keep their fingers from their neighbors' property. About this time, on the 8th of July, one of the fraternity who took passage on board the *Senator* for Sacramento was twice within an hour caught stealing. The first time it was a pair of shoes from a Chinaman—O base-born son of Albion! to steal the worthless wooden shoes of a greasy Asiatic! Next it was five dollars in gold which a passenger laid on the

counter at the bar, and which the thief took up. The captain being informed of the traffic, took the offender forward to the windlass, and after giving him three dozen lashes put him ashore. The same day a thief named Hodge was arrested, who regarded his execution a foregone conclusion, and manifested profound indifference as to preliminaries.

The 22d of August, two days before the execution of Whittaker and McKenzie, there was great excitement in Sacramento. Two highwaymen, James Gibson and John Thompson, convicted some time before, were executed by the sheriff; a third, Robinson, received a respite of his sentence from the governor. This did not suit the Vigilance Committee. They demanded that Robinson likewise should be hanged, and as the sheriff had no authority to do it they did it themselves. When the hour for the execution arrived the sheriff brought the three men from the station-house, and after reading the reprieve of Robinson ordered the two who were condemned to the place of execution and the third to the prison brig, but on their way the guard of the latter was overpowered and the prisoner taken to the grove where the execution of the others was in progress. After the sheriff had discharged his duty in respect to the two condemned, and had washed his hands of what was to follow, Robinson was mounted on the same machine by the Vigilance Committee and sent speedily thence to follow his comrades. That night a mass-meeting was held at the Orleans Hotel; on motion the governor was requested to resign, after which he was hanged and burned in effigy.

Robinson's life from early boyhood was a succession of crime; he hesitated at nothing, however diabolical. He was a native of New York city, and was thirty-two years of age. While at school, and but thirteen years old, he had forged the name of a cashier of a bank at the suggestion of one Granstine, who was but a few years older, and who forged the

president's name. They were successful in this enterprise, drawing $4500 on the check. Granstine, Robinson, and another accomplice, attempted a robbery soon after of $7000, which Granstine accomplished by the murder of a young woman, for which crime he was hanged.

Arrived at the age of sixteen, Robinson with the aid of an accomplice robbed his own father of $2500. Then going to Pittsburg he obtained a place as cabin-boy on board a steamboat. At the instigation of the steward he stole from a passenger, while asleep, $3000 in gold. Robinson met the steward again in Cincinnati; they travelled together to New Orleans, where they engaged in new crimes. Robinson obtained a responsible position in a hotel, where he remained several months. Then with accomplices he robbed the safe of $5000, for which crime he was arrested on suspicion, but was able to make apparent his innocence. Meeting on one occasion in Albany two men, Hunt and Edwards, by whom he was known as a skilful penman and a sharp rascal, they made him their partner, and expended $300 on him for dress and jewelry, that he might pass as a gentleman. After due preparation he presented at a bank a forged check for $2500, and obtained the money without difficulty. In Philadelphia, where they went immediately, he practised on one name for several days, until he was able to counterfeit it so well that on a check $20,000 was drawn from the bank. Robinson's share was $6000. He sent to his mother the larger part of it, telling her he had drawn it at a lottery. In Baltimore the associated scoundrels obtained $15,000 in the same way. In Cincinnati another check for $20,000 was successfully forged and passed. Edwards boasted his contempt for small things. At Louisville the same amount was obtained in the same way. Here Robinson, dissatisfied with the division, quarrelled with and separated from his companions.

From Louisville Robinson went to New Orleans.

There he robbed the custom-house safe; a negro who was his accomplice was arrested on suspicion and whipped, but divulged nothing. On a plantation where he was afterward employed he opened a safe and abstracted $4000. Thence Robinson went to St Louis. A United States officer was his next victim, whose robbery yielded him $7000 which belonged to the government. He coolly stood by and saw another executed for this deed. Robinson was engaged in thefts of greater or less magnitude constantly. In travelling from one point to another his fellow-passengers were his victims. For knocking a man down with a slung-shot and taking $1300 from his belt, Robinson was arrested, but escaped by paying his lawyers liberally. In Cincinnati he and an accomplice broke open a jewlery establishment, and his partner in the crime was imprisoned for seven years. Memphis, Vicksburg, and Natchez in turn were successfully visited by this prince of villains. He sent his mother money again, $2000, leaving in his possession $800 in altered bills. Hogan, an accomplice in many of his crimes, was hanged for murder in Cincinnati. In St Louis Robinson obtained money by forgery, and as a pickpocket achieved great success. In New Orleans he was six months in the county jail for theft. At various times he was arrested, when false swearing, bribery, and the skill of lawyers cleared him.

After becoming notorious through the south and east, with detectives on his track, he came to the Pacific coast. At Marysville he attempted to kill his wife, on account of her unfaithfulness; escaping from his pursuers he went to Nevada. He followed his profession successfully wherever he went; some of his stolen goods he disposed of to Belcher Kay. In Sacramento he perpetrated many successful felonies. But his rare luck at length deserted him. With two or three companions, who had been drinking and gambling at a certain place, Robinson started for a saloon. One of the men, Wilson, was an acquaintance of but a

few hours; he was thought to have some money upon him, and as they reached some bushes in the road Robinson and an accomplice threw Wilson on the ground, and robbed him. Robinson was soon arrested. All this on the authority of the miscreant himself, which the reader may take with whatever allowance his judgment dictates. Strange that in the heroics of crime the tendency should be so marked for the villain to magnify his own villainies. And this was the man the governor would pardon.

Henry Caulfield, who had been prominent in the Sacramento squatter riots, and John McKune, a Sacramento lawyer, were the personal enemies of Judge Wilson of the court of sessions. For some fancied wrong they determined to obtain satisfaction, and for that purpose loitered about the court-room on the morning of the 16th of June, 1852, until adjournment. McKune then accosted Wilson and demanded his retraction of abusive language. Wilson replied that he never retracted anything that he said. McKune then raised a bludgeon that he held in his hand and struck Wilson, who retaliated by thrusting his sword-cane into his adversary's side. Deputy-sheriff McDonald then disarmed Wilson, whereupon Caulfield, who had been watching his opportunity, sprang forward and fired at the judge. At that instant McDonald rushed between Caulfield and Wilson, and the ball which probably would have killed the judge passed through McDonald's body. With blood gushing from the wound, he fell upon Caulfield and wrested the weapon from him. The by-standers now entered the arena, and shooting, stabbing, and striking became general. McKune was carried away exclaiming, "I'm a dead man!" and Caulfield was arrested and placed on board the prison brig, there to await the result of the shooting. The Vigilance Committee met at the Orleans Hotel. Of this meeting the citizens were notified by a man going through the

streets ringing a bell. When it was ascertained that the wounds inflicted were not likely to prove fatal, the decision of the meeting was to leave the matter in the hands of the law.

One Conrad Sacksin, on the night of the 27th of January, 1853, was caught in the commission of an act too infamous for record; and the description given of his punishment is scarcely more fit for perusal. He was taken to the levee, tried, and convicted. The question then arose what the punishment should be. Rev. O. C. Wheeler presented the case to the people and put the question to vote. Some were for hanging and others for mutilation. At last whipping was decided on, one hundred lashes to be the infliction. Six respectable citizens were chosen for the execution of the sentence. Then with sickening detail the matter is discussed and the punishment described in the account before me, which I will gladly spare the reader.

These examples had a beneficial effect not only on criminals but on the Sacramento courts. Justice there assumed a more determined tone. An evil-doer could not always buy off or beg off, nor could any villainous lawyer for money clear him. There is no limit to the slaughter of innocents if we may believe the martyrs to murder. On the open plain near Sutter Fort in April of this year three men were executed by the sheriff for the killing, near the corner of B and Tenth streets, of one John Carrol, known as Boot-jack. Shrived by the Rev. O. C. Wheeler, salvation they considered sure; and while in this pious state of mind they humbly confessed that they could not tell a lie, that they did not do this murder, but that it was done by a cunning child of perdition, who made his escape; nevertheless they were hanged. The position held by the Sacramento Committee of Vigilance during the past two years made it incumbent on the courts to hang somebody.

Stockton in early times stood in the same relation to the southern mines that did Sacramento to the northern. To this point was shipped merchandise for the districts of San Joaquin, Stanislaus, Calaveras, Tuolumne, and Mariposa, which was conveyed thence by teams; and there, as in Sacramento, congregated gold-hunters and traders on their way to and from southern parts.

The destruction of the city by fire on the 6th of May, 1851, two days after the great San Francisco fire, stirred the fury in the hearts of the inhabitants. The firing of Stockton, like the kindling of San Francisco, was the work of incendiaries. There were then confined in the city prison certain noted characters whose deliverance their associates sought to accomplish, so it was thought, by these means; but the wind changing, their plans were defeated, though at the expense of the business portion of the town.

The detection of a party of horse-thieves in the vicinity of Stockton about the 1st of June led to the disclosure of a brotherhood in crime extending throughout all that region. This was the band which under Joaquin Murieta had just begun its depredations, and which was soon destined to become the terror of the country. The first one of them captured the people prepared to hang, but after undergoing the preliminary acts of strangulation he was spared on turning informer. Some of the gang were surprised at a fandango, and after being well whipped they were turned over to the authorities. In court when the informer was called upon the witness-stand he refused to testify against his accomplices, whereupon the crowd made a rush upon him to complete the unfinished acts of their tragedy, when a conflict with the authorities ensued, in which pistols were freely drawn, though no damage was done. Meanwhile a people's court assembled to try the keeper of the rendezvous, who was convicted, plunged into the river several times, and afterward stripped, whipped severely,

and ordered to leave the town within sixteen hours. At his house were found all the implements of burglary and murder. These tools were of the finest description, such as were used by the most accomplished villains; the men were good looking and well dressed, and their assaults, the cold atrocity of their crimes, and their boldness and skill, marked them as adepts long and well practised in every species of rascality. Thus the times were becoming ripe for a more solemn declaration against criminals.

Nor was the sentiment by any means discouraged by the newspaper press. Says the Stockton *Journal:*

"Without war cry, we have an enemy in our midst whose signal is theft! murder! fire! If an enemy should attack us from without, all would rise and repel him. The laws are good for peaceful times, but for such turmoil as we now endure stringent measures are necessary."

Another writes, the 5th of June:

"The recent detection of a band of marauders in Stockton, and the watchfulness of the people both there and in this city, gives promise that, with a united effort in every portion of the country infested by these scoundrels, we shall soon be rid of their depredations. The system of rapine carried on so successfully of late commenced some few months after the first discovery of the mines; and it has continued ever since in different portions of the country generally with impunity. In the northern and southern mines the depredations have consisted in thefts of horses and cattle. In the lower ranch country, murders, plunders of houses, and robberies of stock have been from time to time committed; and in the cities the warfare has been conducted in the shape of burglary, theft, and assassination. The papers discovered on the persons of the thieves in Stockton on Monday last, as well as other developments previously made, lead to the belief that there has existed all along an organized gang of brigands, associated in crime, and conducting their Ishmaelitish war upon society in general from different points of the country. No doubt exists in the public mind that this association planned and carried into execution the recent conflagrations in this city, Stockton, and Nevada; and the various atrocities committed last summer and ascribed to the unfortunate Mexicans were unquestionably the work of this band of miscreants. There is also reason to believe that it is composed of some half-breed Indians, some few Mexicans and Americans, and the larger portion of Sydney men. That they are well practised in all manner of rascality is evident from the instruments they use in their burglaries and thefts. Their mode of practise is pronounced by police-officers to be that of perfect adepts in the profession. Their assaults and

murders exhibit likewise a cold atrocity which can only be acquired by years of crime. It is full time some means were adopted to rid the country of this organization. The commencement should be made in this city, and the means are very simple. There are three or four gentlemen in this city who have a thorough acquaintance with the persons and haunts of all the notorious thieves and burglars. A committee of citizens should be appointed, those acquainted with them should be employed to point out these notorious characters, a vessel should be chartered and victualled, and every man known to the police to be implicated in crime should be placed on board and sent out of the country. Hanging would have an excellent effect unquestionably, but hanging one or two will not rid the community of the remainder. Let a general war be made on these scoundrels, quietly and without bloodshed let it be, but with the distinct intimation that should they ever return they will be summarily dealt with. We believe that to send them out of the country is the only effectual method of getting rid of these pests, and we trust the method will be adopted."

The law being thus pricked, as well by the vigilance association as by the press, James Wilson, *alias* Mountain Jim, one of the party just mentioned, was convicted of horse-stealing before the Stockton court of sessions in October and was adjudged to die. When the foreman of the jury delivered the verdict, the prisoner, who was lolling back in his chair looking up abstractedly at the ceiling, quietly remarked, "I expected as much, by God!"

At a meeting held in Stockton on the 13th of June, 1851, one hundred and seventy of those then present enrolled themselves as a Citizen Police, which was preliminary to the organization of a committee of vigilance. On this occasion the town was divided, and resident watchmen appointed for each district. The municipal council was then petitioned to clothe the association with authority, which being refused, the people determined to act without authority.

Dr McLean, a member of the Stockton Vigilance Committee, in July arrested a Mexican for stealing a horse, and carried the offender before the executive committee. The officers of the law, whose wits were somewhat sharper than those of their San Francisco brethren, hearing of it, arrested McLean on a charge

of resisting the police. McLean's resistance was in refusing to give to the law a criminal he had caught at his own cost. He was forced to give bail for his appearance at court in the sum of $3000, which he did cheerfully and went his way.

A package of papers in the pocket of the editor of the Stockton *Journal* prevented the ball fired from the pistol of Mr Gaugh, district attorney of San Joaquin, from entering his heart. This was in October, 1851. There was quite a chivalrous element in Stockton in those days, at the head of which was he who was afterward Judge Terry, of bloody memory. Mark once more, the very men who most easily and naturally broke the law when it stood in the way of their bad passions were the first to denounce those who broke the law when it stood in the way of principle and common weal. I do not say that one should never lift his hand to right a wrong or avenge an insult; that is not the question. I only wonder that those who do this should talk so much about our immaculate institutions, our sacred statutes, and our holy laws.

The *San Joaquin Republican*, the first newspaper published in Stockton, was started by George Kerr in 1850. Successors to Mr Kerr were Joseph Mansfield and H. C. Patrick. Another of the earliest Stockton papers was the *Journal*, at one time edited by John S. Robb and at another time by John Tabor. Journalists in those days, like the politicians, were pugilistic in their tendencies. Positive, plain-speaking men, they often gave offence to those whose conduct was condemnable, which was too frequently the case among those who manipulated the elections or who had the handling of public funds. Editors who opposed each other in politics or public measures likewise collided.

The contest for governor in 1853 was heated, and brought out the whole strength of the contending

candidates, John Bigler and William Waldo. The *Republican* and the *Journal* warmed into personalities, until Mansfield met Tabor one day and told him that to assail his private character would not do. Besides politics, there was trouble between these two journals as to certain spoils. To secure the public printing at a large price, it had been agreed that the *Republican* should put in two bids, taking care that both should be large enough, and that the plunder obtained in consequence of the absence of fair competition should be divided between them. All went well until the *Republican* refused to share the spoils with the *Journal*. Next day after the meeting above mentioned, which was the 22d of June, 1854, the editors again encountered each other, when Tabor without a word of warning drew a pistol and shot Mansfield dead. Mansfield was a fat, good natured man, with scarcely an enemy in the world, and the killing of him was deliberate murder. And so the jury regarded it, for they found against Tabor, and he was sentenced to be hanged. But meanwhile John Bigler was elected governor—and should he see a man strangled for zeal in his cause? By no means. Tabor was pardoned. And the pardon was in this wise: Forty thousand names asking clemency were attached to a petition; but before it went up to the governor the heading was changed from mitigation to full pardon. Vigilance slumbered.

Marysville stands near the junction of the Yuba and Feather rivers, and was once the head of river navigation in this direction, and the distributing point for the counties of Sutter, Yuba, Nevada, Sierra, and Butte.

In cases of exile the interior committees, who as a matter of course were unable to ship their criminals to foreign parts, did the best they could. If cases were chronic, and of a general character, they handed them over, with the evidence, to the San Francisco

Committee. If local, or of a milder form of the scourge, the vagabonds were driven away to prey on others.

All along through the summer and autumn of 1851 the Committee of Vigilance which had been organized in Marysville did good service, and were largely instrumental in rendering the upper country inhabitable. In October the association resolved that a committee of ten be appointed as a standing committee, who should have power to call a meeting at any time, and do and perform such duties as might be thought necessary for the welfare of the community. They should likewise have power to adopt any rules which tended to promote the efficiency of the general body, and to fill any vacancies that might occur among their own number. F. W. Schaeffer, J. L. McDuffie, R. A. Eddy, W. W. Smith, H. Beach, L. Steinhart, Charles Gleason, John G. Smith, Charles Ball, and E. Woodruff were appointed such committee.

Early in November word was brought to Honcut by two travellers that four Mexicans had been met on the road a few miles from Natchez, one of whom was dragging a man with a lariat, whom they probably intended to murder. They were powerless to interfere, as they were not sufficiently armed to resist the Mexicans; when they reached Natchez they gave the same account to the authorities there. Parties from Honcut and Natchez started at once to make investigation. The Honcut party, after a little search, found the body of a man, which was recognized as George Mather, from Boston or vicinity, who had been engaged in transporting goods to the mines. This account they brought back to Natchez. The others soon returned, having made a still more shocking discovery, as they had found the bodies of two men, Gardner and Jinkerson, who had left Honcut rancho on foot that morning for Natchez. They probably had endeavored to rescue Mather from the

Mexicans, and had lost their lives in the attempt. When wagons were sent out for the bodies it was found that they were lying but a hundred yards apart. Jinkerson had received seventeen stabs, almost any of which would have proved fatal; Gardner and Mather had their throats cut, and all of them had marks of a lariat upon their necks, having been dragged out of the road by that means. The pockets of all three of the young men were rifled. There had been seventeen murders committed within a few days, among others, several at Bidwell Bar, ten or fifteen miles up the river, and the people were intent upon discovering the authors of these crimes and bringing them to justice.

In the suburbs of Marysville, at what was called the Sonorian Camp, was a band of Mexicans, who were strongly suspected as the guilty party. A Mexican thief, captured by the Vigilance Committee a few days before, had confessed to the fact that the Sonorian Camp was the retreat of many well known murderers and robbers. On the night of the 12th R. B. Buchanan, sheriff of Yuba county, accompanied by a *posse*, proceeded to the camp to make an arrest. Hitching their horses a half mile distant, they advanced cautiously, the bright moonlight rendering their position all the more dangerous. Presently a large dog came out at them, and though quickly stabbed, its bark had alarmed the camp. As the sheriff's party drew nearer they saw standing by the fire a Mexican, richly attired and armed to the teeth, peering at them through the chaparral. It was afterward ascertained that this man was no other than the redoubtable Joaquin Murieta, here encamped with his band.

Being thus discovered, the sheriff endeavored to retreat; he was fired upon by the robbers, and returned the fire. For a short time there was quite a brisk engagement. The sheriff then fell back, but while climbing a fence was shot by Murieta and

severely wounded. The city, already aroused, sent out a large force against the robbers. The camp was deserted, the Mexicans having secreted themselves in the chaparral near by. The place was surrounded, but in the darkness nothing could be done. Two shots were fired by the Mexicans from their hiding-place, when the pursuers retired, leaving a guard for the night. Next day a merchant distributed arms to twenty-five more men, who went to the chaparral, when it was found that the night guard had deserted their post, and the Mexicans had escaped. There was plainly apparent a lack of something, and the Marysville Vigilance Committee at once reörganized.

About the same time a vigilance committee was in session at Natchez for the purpose of ferreting the murderers of John B. Gardner, C. Jinkerson, and George Mather, such being the names of the men killed the 11th of November. Eight hundred dollars reward was offered by the citizens for their capture. The committee arrested several suspicious characters, but accomplished little directly.

The same week six men were murdered near Grass Valley. A vigilance committee was at once organized, armed, and mounted, with E. B. Lundy as leader. An organization of the same kind was also formed in Ophir.

In July, 1852, three several attempts were made to fire the city of Marysville, in consequence of which the Vigilance Committee assembled and instituted such diligent search for the felons that for a time quiet reigned. This organization and its successors continued for many years, for as late as 1858 we find that through the influence or agency of the Marysville Committee of Vigilance, on the 8th of January the captain of the police, by order of the city marshal, was enabled to escort to the steamboat landing five desperadoes, some of them notorious, others strongly suspected of crime. The captives were then compelled to pay their fare and depart down the river.

Twenty lashes were given one Mercer by the Shasta Vigilance Committee the 19th of September, 1851, which work was the result of an investigation made by them in the matter of a theft committed at the St Charles Hotel the night before. It appears that Pat Sullivan had given his purse to Mercer to weigh from it an ounce of gold dust. Mercer stepped to the counter for this purpose, and when he returned to where Sullivan was sitting, as he appeared in no haste to give back the purse, Sullivan demanded it of him. Mercer gave it him, but it was lighter by more than an ounce than before. Said Sullivan: "You have taken my money." Mercer was searched, and six ounces in loose gold dust found in his pocket. Thereupon the Vigilance Committee whipped him; for of such were their chastisements.

There was a place called Mad Mule Cañon, in the Shasta district, which name was a libel on the species *asinus* beside the doings of men in that locality. One day a man, made insane by his thirst for gold, murdered his keeper and took from his belt a thousand dollars in gold dust. He then attacked another and cut him fearfully before he could be secured. To the credit of the miners be it said that to comrades so afflicted—and the cases were numerous—they manifested the utmost leniency, and treated them with every kindness, watching them with patient self-denial night and day lest they should injure themselves or others. The offenders met their just fate. But why name a cañon from a mad mule when there were so many mad men about?

A Missourian named Holt, having made a little fortune in the mines at Weaverville, was about ready to start for home. While making the necessary preparations he was murdered a short distance from town. Suspicion fell upon a man named Michael Grant, who was arrested by the sheriff. The miners seized the prisoner, and appointed from their numbers those to act as judge, prosecuting attorney, and prisoner's

counsel. The trial was fairly conducted, responsible witnesses examined, and Grant was sentenced to be hanged. At his earnest request ten days were allowed him to arrange his business, and to prepare for death; he protested his innocence, and said that they would yet discover the guilty person. He received the ministrations of a Catholic clergyman, who was with him at the time of his death, October 5, 1852, when he was executed in the presence of a large concourse of people at Weaverville.

The Chico *Courant* thus prays for a vigilance committee in September, 1866:

"Robberies and murders are getting to be every-day occurrences in this state—altogether too frequent for the good health of the community. The fact is, as much as we are inclined to 'law and order,' we have about arrived at the conclusion that 'law and order' is too slow a coach for these rascals. We recommend that the people of the state form themselves into a huge vigilance committee and take the matter of wiping out these villains into their own hands. Wholesome killing on a general plan is what is needed."

In 1853 there was in Eureka a small unpainted house, occupied by a Jew as a clothing and shoe store. The Jew was a large man of forty, who lived with a nephew of seventeen, his only companion. After several years of successful business the Jew sold everything and prepared to remove from the place. He was known as indefatigable in business and close in his expenditures, and it was generally conceded that he must have realized considerable money. This probability tempted three burglars, McDonald, Canosky, and another, to enter his store the night previous to his intended departure, murder the Jew and his nephew, and secure the money. An hour or two later a young man in Duff and Company's mill, going through the hall on the way to his room, stumbled over what at first he supposed a bag of shot, but on examination proved to be gold. There was a light in the next room, McDonald's, and he hurriedly entered to show his treasure and ask Mc-

Donald what he supposed it meant. McDonald replied, "We've robbed the old Jew, and I must have dropped one of his bags in the hall; give it to me." This led to further questioning and a divulgence of the truth, that the Jew had not only been robbed but killed. McDonald then acted like a man bereft of his senses. He eagerly told the story how Canosky, himself, and another accomplice entered the store at midnight. The Jew sat at a table writing, with his back to them, and the nephew was sleeping in another room. With a hatchet both the man and the boy were killed; then taking their gold a distribution was made, and each man returned to his own home with his treasure. The story McDonald told was repeated to the authorities, and two of the murderers arrested; and as there was no jail in Eureka at this time they were placed in a wooden building under guard.

There was no violent demonstration by the people, but they acted according to their custom in such cases. They met and deliberated. The third villain was still at large, and their first effort must be to find him. Accordingly they invited everybody from all the neighboring country to meet with them at a designated time. Then they adopted this novel expedient: They placed the murderers in a position where the crowd should pass them singly, and if they saw their accomplice they should indicate which he was. Many an innocent person paled as he passed under their scrutiny, for should he be pointed out, to gratify a desire for revenge or from any other motive, he was a doomed man. Their confederate, however, was not among the number, or at all events was not designated by the prisoners, nor was he ever found. Immediately afterward McDonald and Canosky were taken to a tall pine tree, where a crowd gathered and witnessed their execution. And the waves still sound their requiem on the beach where they were buried.

Early in July, 1851, a vigilance committee was formed at Nevada City, California. The attempted

robbery of F. A. Houghton while on the way from Grass Valley to Buena Vista Ranch, together with other obnoxious doings, stimulated the action of the people. No part of the country was then safe apart from popular measures offensive to crime.

To show the aim of the San Francisco Committee in its intercourse with the interior, and the influence which must necessarily have followed from it, I give the following letter:

"SAN FRANCISCO, July 28, 1851.

"*To the Committee of Vigilance, Nevada City:*

"GENTLEMEN:—In the name of the executive committee of the Committee of Vigilance of San Francisco, and at the request of your friends, I enclose you a copy of our constitution. So far we have acted under it with success in punishing crime and bringing those in authority to a sense of their duty. Our great aim, gentlemen, is to remove corruption from high places, to advance the safety and interest of our adopted state, to establish justice and virtue, without which our fall and ruin would be certain. To secure in the future the great objects we have in view it would be well to look into the character and principles of those whom we would elevate to office, to drag out into light those who may be in office and guilty of corruption, who by their acts have produced so much evil. It is an old and popular doctrine, that it may be necessary to sacrifice the government to the people, but never the people to the government. That your course may be marked with prudence and justice, may God grant. Do not permit vindictiveness to enter into your deliberations. Be calm and determined; swerve not to the right nor to the left, but go onward in your pursuit of right. Be of one mind, and carry your point. The might, majesty, and power of the people can overcome all impending evils; like the thunders of heaven it will shake to naught all corruptive influences, and drive its authors into oblivion. Let the motto of our fathers be ours to sustain and perpetuate—Virtue, Liberty. Let us show ourselves worthy of our origin, determined to sustain and support the blessed privileges bequeathed by them to us. The moment we render up one tittle of the sacred constitution under which we were born, and which cost so much to obtain, and permit a small and corrupt minority to prescribe, we lose our caste, and our boasted institution will become the laughing-stock of the world. I have much confidence in the virtue and integrity of our brothers of the interior, that they will do what is right, and that in time. The blessed influences once enjoyed by them and us at our Atlantic homes may be felt and enjoyed throughout our Pacific homes, humbly trusting that the day is not far distant when we may pass from the north to the south, from the east to the west of our western possessions without fear or danger, and behold in every man a brother. Carry with us, brethren, the holy objects we have in view, and rest assured that erelong the mountains of the Sierra Nevada and the valleys will become redolent with charms which will so much endear

them to us that we will not separate or leave them until we shall be called to mingle our clay with that of our loved and adopted country.

"With deep consideration of respect and esteem, gentlemen, in the name of my colleagues I subscribe myself,

"Your obedient servant,

"S. J. PAYRAN,

"*President Executive Committee.*"

Near Grass Valley in May, 1857, on a hill whose side toward the setting sun was sprinkled with log cabins and shingle shanties, in a pine forest where the stumps of felled trees marked the progress of civilization, a band of rough, bushy-headed men, in felt hats, flannel shirts, and long boots, were gathered in council. After appointing by acclamation one to preside, a speaker mounted a stump to explain the object of the meeting: "Certain men charged with having stolen a bag of gold dust from a store in their town are now in the custody of the sheriff and are about to be committed to the Marysville prison for trial." A derisive laugh by the listeners, subsiding into a growl, followed this remark. "Shall men suspected of crime be permitted to slip from our fingers and gain their liberty through process of law?" Those present manifested their dissent. "Then let a committee be appointed to move in the matter; let one of their number act as sheriff, who with a chosen *posse* shall bring these prisoners before us."

This was done. The committee was appointed by the president, who on these occasions can carry the company about where he chooses; a massive, symmetrical figure, with broad brow and intelligent eye, a splendid specimen of a man—an American miner, fit for an American senator—stepped forth in answer to his name and immediately started on his mission.

The people's sheriff confronts the law's sheriff and demands the men. The law's sheriff resists as in duty bound; indeed he mildly blusters, whereat the people's sheriff smiles and likes him none the less for that. With the prisoners the people's sheriff reports

that the authorities opposing him were finally overcome by superior numbers; and all present inwardly declare the authorities good fellows, who know so well how gently to oppose the people's will, and then and there resolve that they shall be reëlected.

A space is now cleared and the prisoners are seated on the ground in the ring thus made, with their captors still standing over them. A court is formed, the president of the meeting acting as chief judge, and the committee before mentioned as a jury. Counsel are nominated for either side, who are paid by voluntary contributions one hundred dollars each for their services. There are present officers of the law, who enter their protest, which is as idle wind, and seat themselves and socially enjoy the occasion as uninterested spectators. An old man rises, and with gray head uncovered plainly tells the people they are doing wrong. The speaker is listened to respectfully, almost reverently, and then the work goes on.

Witnesses for and against the prisoners are brought forward. The trial lasts two days; the prisoners are found guilty. Then one of them rises from the ground and confesses the crime. Having lost his last dollar at the monte table, he says, he drank to drown thought; and while intoxicated that man—pointing to one of his fellows still lying on the ground—tempted him to rob the trader's box. This the other stoutly denies; but when the sentence is fixed at thirty-nine lashes he offers to discover to them the money if they will remit the sentence. Part of the punishment the jury will remit on the conditions named, but not the whole of it; and so a compromise is effected.

It rains next morning, and the wind blows cold for spring; yet the people's burly big-brained sheriff leads out the prisoners, strips them to the waist, ties them to a tree, scourges them, then casts them loose. Fainting they fall to the ground, curled by the whipping, sick, and moaning. They were tender thieves, or else the blows were exceptionally heavy. One,

who had neglected to negotiate a mitigation of his penalty, dies. The others crawl away, no one knows whither.

In every Californian town not having died a natural death there are always a score or two of stirring business men of moral worth and substance. These are the *nuclei* of country committees of vigilance. These best men are usually supported by a less influential class, but five or ten of the kind first mentioned are the life of every movement.

Truckee in 1873 was one of the liveliest towns in California. The new overland railway brought to it money, merchandise, and activity; but it also brought the bad element common to new prosperous localities. The good men were thinking seriously of banding to drive out the bad when a strange incident occurred which relieved the town on the instant of two of its worst characters. Jack White and Andy Fudgett had quarrelled. Meeting one day upon the street each emptied the chambers of his navy revolver into the body of the other. Both died.

This spontaneous combustion of crime was a happy circumstance and a wholesome warning. For a time peace reigned at Truckee. But by November, 1874, villainy became unbearable, and the substantial citizens felt obliged to resolve themselves into a Committee of Vigilance. This they did, with '601' as their sanguinary symbol. Orders to leave were issued and for the most part obeyed. Two, however, a man and a woman, Bob Mellon and Carrie Prior, *alias* Spring Chicken, refused to quit the town. Mellon used to boast of having fought a duel in San Francisco with bowie-knives, Spanish fashion, the left arms of the combatants being bound together. The fair Carrie's hand was not unstained with human blood, and many men had been foolish enough to cut and shoot each other for her vile sake. Bob and Carrie must be made to go; so one day orders were issued

for the vigilants to meet at midnight. Foremost in energy and respectability among the citizens of Truckee was D. B. Frink, a prominent member of the Committee. Writing C. F. McGlashen on that day he says: "The vigilants have business on their hands to-night. If resistance is offered, blood may be shed." It was understood that the work in hand was serious.

Masked in black cloth, covering head, shoulders, and breast, with coats turned inside out, the small men padded to look large, and the large men, contracting their breath and stature so as to appear diminutive, the society of 601 met in the principal hall. They were well armed with concealed knives, pistols, and quiet determination. Carrie felt the approaching affray instinctively. She said they might come on, that in Hayward's house, a place of bad repute situated on a back street, would be forty armed men to protect her. Mellon swore he would not be taken alive, and that he could kill at least a dozen vigilants before they could kill him.

When all was ready, silently the masked men left the hall, passed through a saloon, and surrounded Hayward's house. Four took their station at the back door. Thirty entered the front door, and demanded of Hayward the surrender of the house. No opposition was made. Two or three drunken stragglers found in the bar-room were permitted to go their winding way. Hayward was then ordered to open the door to every room. Closely at his heels followed the masked party. After examining the first floor they all proceeded through a narrow hall to the stairway, Hayward being in front carrying a light. The threats of Carrie and Mellon had led the party to expect a certain attack, and their nerves were now stretched to their utmost tension.

Suddenly through a broken panel of the back door, which opened into the hall, a pistol was thrust, whose glittering barrel covered the whole line of

vigilants. It was black darkness without, and as the vigilants were momentarily expecting attack there was no time to be lost; so that almost simultaneously with the appearance of the pistol-barrel shots were fired from behind. Hayward and one of the men at the back door fell dead. The search was continued; the town was cleared of its bad characters; but the result of the night's work sent a thrill of horror through the community, never to be forgotten, when it was learned next morning that it was the honored and beloved Frink who was thus unintentionally killed by one of his own comrades.

At Mokelumne Hill when on the night of July 3, 1851, John Nelson entered the house of one Hall and shot him. The principle of vigilance was there, the law assisting, though the miners faintly comprehended the meaning of the term or its true significance. However, all believing it desirable and right, the legal judge and the miners *en masse* constituted the court, and at the close of the trial the judge did not scruple to ask of the crowd its verdict. About that time a case occurred at Yreka where a mob of miners attempted to take a sheriff's deputy from the jail. The citizens arose, armed themselves, and entered and defended the prison.

On the streets of Mokelumne Hill a fatal assault was made the following Christmas. A man named James Campbell mounted a mule belonging to a Chilean, and was riding off, when a friend of its owner, one Naides, stopped him and remonstrated in a quiet way, receiving in answer a blow from the bully, quickly followed by a knife-thrust in the Chilean's side, which caused immediate death, but not, however, until he had thrown his knife at Campbell, which, passing through the air a distance of ten yards, stuck in the wall of the Empire House. Campbell took refuge in a miner's cabin, but was pursued by Chileans, who fired several shots, wounding a

number of by-standers. The crowd arrested Campbell, gave him a hurried trial, and pronounced him guilty of murder; but by a vote of the crowd he was to be delivered to the civil authorities. As the guard was about to remove him to the custody of the officers, another motion was made, this time to liberate him, and he was released. He was afterward arrested by the authorities, but escaped, when the people in their indignation formed a vigilance committee, determined to see justice done.

This Committee on the 30th of March, 1852, caught a Mexican cutting open tents and stealing gold dust, and thus argued: If handed over to the authorities he might, perhaps, be committed to the Jackson jail, where if he remained twenty-four hours it would be because he liked the accommodations and had no fear of being convicted; if whipped and turned loose, it was known from his previous bad character and vicious propensities that he would again resort to the same course; it was known that he had served several months in the chain-gang at San Francisco; if hanged, there would be one thief the less, and an awful warning thus given to others guilty of like offences. So sentence of death was passed upon the man. Carlos Eslaves, for such was his name, received information of these proceedings with the utmost indifference. Being told that his execution would not take place until the following day, he requested a good bed, some good brandy, a good breakfast, and a priest, all of which were given him. The hour arrived, he lit a cigar, marched quietly to the place of execution, coolly talked with the people, confessed his crimes, and was launched into eternity. Within a month thereafter a murderer was executed by the same Committee.

A man arrested for murder in June, 1852, was examined by the justice at Jackson and committed for trial at the next term of the district court. The Vigilance Committee had offered $300 for his apprehension, and having secured his arrest they were

willing the law should take its course, meanwhile keeping a sharp eye upon it that it should not be subverted. This did not satisfy certain of the people, who took the prisoner from jail and hanged him. This is a fair illustration of the difference between a vigilance committee and a mob. Here in this town of Jackson were three several antagonistic powers laboring to secure the same end—a regularly constituted court of justice, a regularly organized committee of vigilance, and a passionate, revengeful, irresponsible mob. The Vigilance Committee of Mokelumne Hill, after having from an imperative sense of duty executed one criminal, and seeing the officers of the law sternly determined to do their duty, reörganized for the sole purpose of assisting legally constituted tribunals in the administration of justice.

A vigilance committee was formed at Mariposa after the funeral of an old man had taken place whose violent death in March, 1854, had been caused by Thomas Cowan, a gambler. The Committee was composed of fifty of the most respected citizens, who determined that the prisoner should have justice shown him. A mob collected and protested that they would break the jail and hang Cowan; but the Vigilance Committee remonstrated and promised that the right should be maintained. A special grand jury found a true bill against Cowan, and the Committee remained in session until the close of the trial.

The Sonora Vigilance Committee was composed of as good a set of fellows as ever strangled horse-thief. They were diligent in search and terrible in sentences, though somewhat mild in their executions. Drink, it is said, brings to the surface the natural qualities of the man. It intensifies momentary feeling likewise. The mild it mellows and the vindictive it makes makes more hateful. As few country committees of vigilance long managed their business with parched throats,

we may infer that the bark of the Sonora Committee was sometimes worse than its bite.

Of its Vigilance Committee the Sonora *Herald* of July, 1851, thus speaks:

"Investigations of the most important character have been made, and could we tell the good people of this community all that we have learned they would approve even more heartily than now of the organization. It is just what the necessities of the case require. Rascals having been driven by scores out of San Francisco, have taken refuge here in the mountains, and were there no vigilance committees to telegraph to each other and describe the outlaws they would commit a thousand depredations before our regular citizens would know anything about their character. They are now, however, under the special observation of an argus-eyed police, so numerous and so admirably organized that more criminals can be detected in a week than by the ordinary officers of the law in a month. It is gratifying to know that the whole community have the fullest confidence in this Committee. Indeed we know not how it could be otherwise. Composed as it is of the most orderly, moral, and intelligent citizens in the place, not a few in number, but nearly the entire body, men against whom no one has ever dared to whisper a reproach, who have been marked by deeds of charity and mercy, and not by bloody acts of so-called heroism, every one feels and knows that such a body of men will do only what is right. They are cool and determined, and united as one man. The good of society and the paramount law of self-preservation have determined the path of duty, and they are men who never flinch where duty calls them to act."

So busy were the Sonora Vigilance Committee for a season that their whipped and banished averaged one a day. They had a brand made by a blacksmith, H. T., which they burned into the flesh of the hip or cheek, according to the heinousness of the offence. Beside branding, the Sonora Committee seemed to possess a fancy for shaving heads or half heads. They had a bad element to deal with. On the 15th of July a Mexican was tried before them for stealing a horse. Most committees would have hanged him instantly. The man was large, muscular, and capable of much endurance; an ordinary whipping would be no more to him than the switching of a big boy by the school-mistress. The Committee thought it no more than right for them to give according to the prisoner's ability to receive. A hundred and fifty

lashes and H. T. to be branded on the cheek was the verdict. The sentence, though they thought it severe, seemed necessary. At all events they might so far favor the culprit as to administer it in homœopathic doses. So at the expiration of every twenty-five blows they permitted the recipient to rest; and finally, on his promising to quit the country, they remitted the branding. At another time, after administering one hundred and fifty lashes each to three horse-thieves and then shaving their heads, they collected a purse for them, that they might be delivered from temptation.

On the 16th of September the Committee tried and convicted a Sydney convict for horse-stealing. The condemned was sentenced to receive on the bare back one hundred lashes and to have one half of the head shaved. The tender-hearted miners, however, paused at the seventy-fifth blow and let the sufferer loose. Shortly before the Committee inflicted seventy-five lashes and shaved the head of a Mexican for stealing a six-shooter.

The Sonora *Herald* about this time, speaking of the arrests by this tribunal and the punishment of lashing, says:

> "We believe these are the first cases before the Committee for a long time; not that the diminution of crime is so great but that the courts under the new criminal organization are fast superseding the want of a vigilance association. Rogues are now brought up and meet with speedy trials; justice is no longer tardy in its operations. We hope, now that this desirable change in the administration of law has been brought about, that the Committee will act as an adjunct to the authorities in the detection of crime, and hand over all cases to the courts for punishment."

At Tim's Garden, one mile from Columbia, in October, an honest old miner named Crowning was robbed of hard-earned gold dust to the amount of $600. He had left it in the pocket of a coat which he had thrown down beside his claim when he went to work in the morning, and at noon on looking for his coat it was missing. Suspicion fell on one

W. E. Conkling, who had been seen hovering about the spot during the forenoon. Search was made, and the man found at a monte table with some of the dust still in his possession. He was only speculating with the funds of another, and would have paid it back if successful. He was tried by the Vigilance Committee of the place and given seventy-five lashes. Very moderate for Columbia in the year 1851.

In the summer of 1858 the town of Visalia stood upon the frontier, somewhat remote from the more settled portions of California. Population was sparse, the courts poorly organized, and the greater part of the inhabitants wild and lawless. Some of them were followers of the Mormon prophet; others were emigrants from the confines of civilization. There was not a jail in Tulare county. A rough shanty in an oak opening constituted the court-house. In the centre of the shanty, whose floor was the solid earth, was the stump of a large oak tree, to which was attached a ring-bolt. This stump and ring-bolt was the county prison; for to it felons were chained and a guard placed over them. On the 27th of July Sheriff Poindexter arrested one William C. Deputy, called by some a bad character, on complaint of his nephew, J. D. Stapleford, who alleged that Deputy had defrauded him of lands and moneys amounting to the value of $30,000 or $40,000. The sheriff placed Deputy in the jail and chained him to the stump, a treatment imposed upon all prisoners charged with a state prison offence. Deputy was an old man, and because he was a Mormon all the more people called him an unprincipled villain, and he was shunned and detested in the community. They said he held in his possession at the time of his arrest, as a confidential trust, property belonging to his nephew, Stapleford, which he now persistently refused to reconvey. A lawyer was employed to compel the man to disgorge the funds, but Deputy had concealed his

tracks with such skill as to defy detection and defeat legal proceedings. Stapleford was duped; the law could not help him to obtain restitution; nothing would avail but to compel the man to sign over his ill-gotten gains. He stated his grievances to his friends, and enlisted the sympathy of the community. They knew of but one way to adjust the difficulty, and in the thinly settled frontier counties it was a method frequently employed. They would form a vigilance committee, and would compel the old man to sign the papers. They believed Stapleford to be right, and they would help him to that justice which the law could not give; and yet had not Deputy been a Mormon I doubt if such high-handed proceedings would have been popular in a matter of property only. Nevertheless the so-called Vigilance Committee were impatient for the night, productive, as they anticipated, of a triumph of justice and right. To accomplish their purpose the best citizens sometimes united with the worst. Men of intelligence and probity were not unfrequently overawed and kept in circumscription by the turbulent and irresistible element which so largely predominated in Visalia. But now their cause was made a common one, and there was not a single individual who opposed the plan made known to the assembled crowd that gathered and determined upon action. That night between eleven and twelve o'clock they marched to the court-house, where they found Deputy guarded by two armed men, who presented but a slight obstacle to the pursuance of their object. They entered the room, took Deputy from the bench upon which he was lying, and led him out to the northern section of the town, where he was placed beneath a tree, from which a rope was already swinging. The rope was then adjusted about his neck, and he was informed that his life would be forfeited unless he complied with their demands in regard to Stapleford's property. This he refused to do. Two or three times he was swung in the air and lowered,

until finally he promised to do what was required, provided that he should be released from custody and from the charge of felony then pending against him. This was granted, when he made full confession, promised restitution, and gave account of what he held. He was then taken back to the room and again chained, to await until morning the appearance of the lawyers. The sheriff then placed a strong armed force about the prison to prevent further violence, and remained with Deputy throughout the following day. The next morning a notary was summoned, who drew up a deed, and asked Deputy if he cheerfully and willingly would sign the paper. There were several persons present who witnessed the proceedings, among others one Douglass, a lawyer called a man of rectitude. He talked with Deputy in a friendly way, advising him to sign the paper, which he did, and which Douglass attested. The acknowledgment was then taken by the notary, and his seal affixed. Not the slightest coercion was used, it was claimed, the old man readily assenting to whatever was required. Deputy was then released, and all charges made against him withdrawn. Immediately upon his release Deputy went to San Bernardino, and there appealed to the courts, endeavoring to be reinstated in possession, but was unsuccessful in his application.

The Ku Klux Klan organization, which achieved such prominence in the southern states, seems to have occasionally cropped out on the Pacific coast. On the 25th of August, 1868, the body of B. S. Templeton of Visalia was found hanging from a tree on the banks of the Tule River, about thirty miles from his home. The hanging was charged to the Ku Klux Klan. At the same time mention is made of depredations caused by a band under this name in Sam Valley, Jackson county, Oregon. Their operations seemed confined to poisoning cows, horses, and other live-stock, and to warning one or two citizens.

To cut short the trickeries of law by means of which the brothers Thomas and William Yoakum had escaped punishment for one murder, and seemed by new trials, change of venue, and other court divertisements about to clear themselves from another, seventy-five of the people of Bakersfield—some say forty—on the 28th of May, 1878, forced open the jail door, covered the officers with their guns, entered the cells of the Yoakums, and hanged them there. There was much shooting in this affair, one of the prisoners receiving five balls before he was hanged, and several of the vigilants were wounded, unintentionally, by their associates. Though chained to the bottom of their cells, the Yoakums fought desperately before yielding. Two men, William Johnson and Hamilton J. Tucker, had been their victims, killed more than a month previous on account of a quarrel growing out of mining matters.

On the 24th of December, 1872, Charles Allen, proprietor of a saloon in Visalia, was shot by one James McCrory, between whom and himself an intimate friendship had apparently existed, Allen having shown McCrory every kindness, even to giving him $100 a few hours previous to his death. There was not the slightest provocation for the murder. Allen asked McCrory what he and another man were quarrelling about, when McCrory replied, "I would just as soon shoot you as anybody else!" and immediately levelled at him the revolvers which he held in each hand. Allen implored him, "For God's sake, don't shoot me! I'm unarmed!" but McCrory fired several shots, until assured of his victim's death. McCrory was arrested by the sheriff and lodged in jail. He was a desperate character, and although upon several trials for murder convincing proof had been presented, he had always been acquitted. The people were now unwilling to trust again to the law, and on the following morning the Vigilance Committee entered the jail and forced McCrory to his place of execution, a

bridge in the vicinity. Before the crowd dispersed a collection was made to defray the expenses of the burial. During the winter of 1873–4 a new Vigilance Committee was organized at Visalia for Tulare and adjoining counties. Owing to the watchfulness exercised by the inhabitants of the coast counties, hordes of highwaymen, horse-thieves, and cutthroats, were driven back into the Tulare region, which led to active measures by the people of that vicinity.. Following this movement, many Mexicans, and indeed all of every nationality who could not satisfactorily account for themselves and the method of their living, were directed to go, lest worse should befall them.

Very prompt to form and very efficient was the Santa Clara Vigilance Committee, organized to act in concert with the Committee of San Francisco. Herewith I give a copy of proceedings at their first meeting:

"At a meeting of the citizens of Santa Clara, held pursuant to public notice, Mr Joel Clayton was called to the chair, and Mr R. Bucknor appointed secretary. Mr Pierson addressed the meeting, and stated the object to be to take measures to act in concert with and approve the proceedings of the Vigilance Committee of the citizens of San Francisco, and offered the following resolutions, which were unanimously adopted:

"'*Resolved*, that we deeply sympathize with the citizens of San Francisco in their losses sustained by the late fires; that as we believe the late disastrous fires to have been the work of a regular band of thieves and incendiaries too fiendish and dangerous to be suffered to prowl about San Francisco; that as we believe our interests are identified with the sustaining of that city, we will heartily second and assist the citizens to detect, bring to justice, and punish the scoundrels that infest that city; that we consider the hanging of the notorious burglar and thief Jenkins entirely justifiable, and in our opinion it is the shortest and only way to save the lives and property of citizens; that we hereby call upon the Vigilance Committee of San Francisco to transmit to the Vigilance Committee of this place descriptions of suspected desperadoes whenever they shall hereafter leave that vicinity; that we call upon the press of San Francisco to publish these resolutions, and assure their citizens that if a vigorous effort should be made to free themselves from the pest we will come to their assistance *en masse* if necessary.'

"Mr Gates then moved that those present form themselves into a Vigilance Committee, which motion was unanimously adopted, and the chairman, Mr Clayton, elected president of such committee, and Mr Gates secretary.

On motion of Mr Gates a committee of five, consisting of Mr Pierson, Captain Rush, Mr Buckner, Colonel Davis, and Mr Buffum, were appointed to draft resolutions and rules to govern the action of the Vigilance Committee; whereupon the meeting adjourned to Thursday evening, the 26th inst.

"JOEL CLAYTON, *Chairman.*

"R. B. BUCKNER, *Secretary.*

"*Santa Clara, June 25, 1851.*"

At a meeting held a few days afterward constitution and by-laws were adopted, and the organization was completed. Scarcely a single citizen refused to join the association. One of their first acts was no less unique than energetic. A notorious character was arrested for theft by the civil authorities and put under bonds to await his trial. The Vigilance Committee bailed him out, gave him a thorough flogging, and then returned him to the custody of the law.

At San José in October, 1851, two Hispano-Californians, father and son, arrested for cattle-stealing, were tried, convicted, and sentenced by a people's jury to receive twenty-six lashes each. The old man's head was white and his body bent with age; the son was a manly fellow, straight as a forest tree, athletic, in the full vigor of manhood, with a bold front and an unflinching eye. When judgment was pronounced he rose to his feet and begged one boon of his judges. For himself he asked nothing—but that old man, his father: surely, if they were sons themselves, and not bastards, they would let him take the whole punishment, and suffer in the old man's stead. The proposition of the son was considered by the Committee, and a resolution introduced that the sentence of the father should be remitted, and that he should be handed over to the authorities. Nor would the Committee take advantage of the son's proposal to augment his sentence. The trial of the father in court, made with more deliberation and a fuller cognizance of facts, revealed the truth that his sentence had been disproportioned to his crime, and he was released with only a fine of five dollars.

It was an extremely difficult matter for the native population of California to understand that it was very wrong to steal horses. That is one reason why so severe a penalty was inflicted for this crime. In their early times they had been accustomed to catch and saddle almost any horse running at large. It was the thing to do to return the horse or to leave another in its stead, but the owners of ranchos were not often particular about a horse or two more or less. Said Derrasio Berryessa, when about to be executed by the Vigilance Committee of San José July 21, 1854, for stealing horses, "My countrymen, you must all leave here; it is no longer a fit place for you!"

In the spring of 1850 Mariano Hernandez, a Mexican horse-thief and highwayman, was captured and confined in San José jail. His arrest was made on the suspicion that he had murdered a man named John Foster, who had lived in one of the upper counties, and had robbed him of twenty thousand dollars. A Mr Savage had come to San José for the purpose of having Hernandez taken for trial to the county where the murder had been committed. Savage was a neighbor of Foster, and had deposited money with him, which was lost by the robbery. Before Hernandez could be removed he must be brought before the judge, and while on the way he escaped. Savage was greatly incensed, and openly accused the sheriff and the judge of having accepted money from the prisoner as a bribe to release him. The people talked of hanging the officials. Savage threatened if something was not done he would lead a band of armed Indians against the town. In the mean time Hernandez was pursuing his villainous course in other sections of the country, but at Monterey was again arrested. He was sentenced to be hanged, and narrowly escaped with his life; he was suspended from a tree, but the rope broke, and that circumstance, with the timely intercession of a priest, secured his pardon. However, the

reprieve served but little purpose, for at Santa Cruz he was seized by the Vigilance Committee for some criminal act, and was hanged by them on the 20th of July, 1852.

On the next night this same Committee in Santa Cruz hanged another Mexican. He was taken from jail, where he was awaiting his trial for horse-stealing. The prisoner made a confession just previous to his execution in which he implicated others of his countrymen. Search was immediately made for them. One was captured—a hardened wretch, who boasted of having killed several Americans. His trial and execution quickly followed his arrest. He exhibited no fear, walking with a firm step to the gallows.

On the 11th of January, 1853, the Vigilance Committee of Santa Cruz ordered that three thieves should receive from twenty to fifty lashes, and be banished the town, and that should they return it would be under penalty of death.

It was neither a profitable nor pleasing position, that of member of the Monterey Vigilance Committee, for when they hanged a villain twenty other villains narrowly watched the hangman, swearing vengeance. More than one member of this association in 1856 died out of his bed. Murder had become so bold, however, that there was no help for it. If we may credit D. R. Ashley, subsequently United States Senator from Nevada, by actual count there had been committed in and round Monterey during three years sixty-three murders, without one judicial execution. Bullets flew from town-houses and solitary thickets. Mail riders were shot so frequently that for once in the history of our country the service went begging.

In the early part of February, 1858, there lay in the jail at Monterey, under sentence of death, a Spaniard named Anastasia, who had been convicted of one murder and had confessed to another. The crime for which he was imprisoned was the killing of an old

man, whose cabin he had feloniously entered with an Indian. The old man was a Mexican sheep-herder in Chalama Valley, Fresno county, and had in his possession one hundred dollars, for which he was murdered, being shot twelve times and his skull broken. A jury, composed equally of Americans and Mexicans, condemned Anastasi to be hanged on the 12th of February; but two days before that time a document was received by the sheriff from Governor Weller granting a respite from death for several days to one Anastasi Jesus. As José Anastasi was the only person in the Monterey jail under sentence of death, the respite was clearly intended for him; at least such was the conclusion of the sheriff. The under-sheriff, however, incited and sustained by a large number of the most influential inhabitants, took a different view of the matter, arguing that the misnomer in the reprieve was fatal to its legality, and that unless the sentence of death should be executed on José Anastasi on the day fixed he probably would escape punishment altogether. The under-sheriff therefore assumed the responsibility of proceeding with the execution, and Anastasi was duly hanged. Governor Weller was greatly incensed, and when the under-sheriff wrote him on the subject the governor responded in an angry and undignified communication, denouncing the course of the deputy in the most violent terms. The under-sheriff was sustained by the citizens, by whom the whole course of the governor was strongly condemned. They felt that José Anastasi was legally convicted and under sentence of death; he had confessed not only the commission of the murder for which he had been tried, but also another one; there was a question as to the legality of the reprieve, there was none as to the legality or justice of the sentence; and lastly, had the day of execution passed, pursuant to a document that was null and void, there were serious doubts as to whether the prisoner could ever be executed under that con-

viction, and the blunder might result in turning a desperate criminal loose upon society. This is called the first legal execution in Monterey county under American rule, and in the minds of many there remained the question whether this was legal.

Says the Pajaro *Times* of February 13, 1864:

"The people of Monterey county are in earnest about ridding themselves of the thieves and cutthroats who infest that section of the country. Last week in Natividad the citizens formed themselves into a vigilance committee and tried three Californians—two brothers named Lopez and one man whose name we did not learn. One of the brothers and he of the unknown name were found guilty of various robberies and depredations, and on Monday last were publicly whipped and sent to jail. The elder of the Lopez brothers was adjudged guilty of murder and forthwith hanged. Beside several other murders charged against Lopez, he killed a Chilean some months since for an old saddle and sack of barley. The whole family is said to be of a wicked nature. The father was sentenced to death and hanged some years since in this county."

There were many cases illustrating how the spirit of self-government wavered between vigilance and mobocracy. On the desert border of southern California lived Matthew Riley, who along in the early fifties became quite famous as a leader of men and a manipulator of power. Sometimes the men were not all of the best, and the power—well, while the quality of it was not equal in purity and directness to that engendered by steam or electricity, it was no whit below what is manufactured to-day for our governors and presidents by thick-headed Africans and unwashed Europeans. It is scarcely fair to charge all wrong-doing to the devil, and credit all right-doing to a higher power, because in the so-called special province of the latter, we find poorly done, or left undone, matters of which omnipotence can scarcely be proud.

Matthew Riley was about five feet seven inches in height, compactly built, broad-shouldered, with flesh as solid as lead. He knew how to command men, whether in the direction of business or fighting. To the former he brought a fair education and average ability, which secured him a moderate fortune; as

auxiliary to the latter he had a score or two of men of active and muscular organisms always at his call, with no end of political and office-seeking backers. Thus it was that in any cañon or at any cross-roads, no less than in court or camp, Mat could hold a Liberty Fair, or play a game of Eternal Justice, on short notice.

By attending closely to his duties and privileges as a favored citizen of a thrice favored republic, as every true man, every intelligent and progressive lover of freedom, is bound to do, he had always on hand ready for immediate use a large store of power, social, political, judicial, ecclesiastical, mechanical, or of whatsoever kind or quality which might at the moment be in demand. Whosoever went wrong Mat or his men would set right; he who persisted in wrong-doing, by Mat or his men was quite certain to have his nose or neck twisted. What was right and what wrong —there was sometimes a question; but not often. What priest, or politician, or merchant is there who fails to find right on the side of his bread that is buttered? Mat was a great judge. He was a judge of men, a judge of morality, a judge of justice. His followers were not all of them so clear-headed, and several times brought themselves and their master into trouble. They would sometimes find themselves at the wrong end of a legal sequence, though as a rule, like the wise and wily ones of the present dispensation, they found law too great and good a thing to be ignored or crushed. So Mat and his men, like any other of the kings who stalk about over this confederation—money kings, piety kings, political kings—used law when it suited their purpose; if it did not they coolly kicked it out of the way—differing in their way of doing it from our present legislators and justice-jugglers in this respect, that whereas these latter are exceedingly sanctimonious in their worship of law, are exceedingly circumspect in their position before the law, taking care always to avoid the risk of prison walls

in their rascalities, Mat, who made the men that made the laws, could not understand why he should stand on much ceremony with so cheap, unstable, weak, flimsy, and fickle a thing as law. And as for justice, what and where is it, in earth, heaven, or hell?

In due time the business of horse-stealing became so bad that few artists cared to follow it. It was easy enough to gather in stock, but difficult to dispose of it. Mat and his men could smell a horse-thief miles away, so that the most of the unhanged in that vicinity either reformed or moved away. They were very efficient at any kind of detective work, five or six of them being able at any time to accomplish more in bringing criminals to justice, and in executing them, than all the constables, sheriffs, lawyers, judges, and jails in three counties. True, this boomerang of equity and material morality sometimes flew back and killed a man or two, once even striking the chief; but as a rule it was thrown true, and striking the mark fairly brought down its victim without recoil.

It is a fact of which sensible, right-thinking Americans can scarcely be proud, that our most worshipful and highly prized machinery for guarding life and property, for making men and women moral and keeping them so, can so easily be outdone, a hundred-fold, by a few commonplace men of practical ability. These cumbersome contrivances, many of them relics of barbarism or of feudalism, are to a great extent mere machines for defrauding the public, defeating the right, and demoralizing natural and manly sentiments, and all under the name of justice. For the advancement of religion men used to commit the most heinous crimes. For the advancement of education men now gather each year a great fund, and after taking three-fourths of it to fill their pockets, the remainder, with much chattering, like learned monkeys, they employ in teaching children to follow in their footsteps. To permit our children to grow up in ignorance, truly is bad; but by daily example, if not indeed by precept,

to teach them dishonesty, and bring them up to bribery, trickery, and the many phases and colors of modern rascality, is infinitely worse. There are many cities and counties in this republic, where if a Mat Riley and six men were always stationed, ready to seize and hang any lawyer caught in perverting justice, any judge swayed in his duty by fear, favor, or any social or political desires, any legislator or member of a board selling their vote or influence for coin, or any person engaged in the rascalities of current affairs, would be a great and most efficient blessing, a benefaction to society superior to all courts, law-makings, and penitentiaries. In the end, Mat Riley came to grief. It may be he killed too many, or not enough; in any event, were he now living he would have plenty to do.

On Tuesday, the 23d of August, 1859, at midnight, two men were executed in the woods of Santa Bárbara. They were Francisco Badillo, aged eighty, and his son, fourteen years of age. Their horse-thieving achievements were notorious, but the course pursued by the mob was strongly censured. On the following day the coroner and jury proceeded to the spot where the bodies were hanging and received the testimony of Badillo's sons, eleven and thirteen years old. An excited crowd of native Californians had gathered, and threats of vengeance were muttered against the Americans. George Nidever, a crippled youth riding by, was suddenly pointed out by the younger of Badillo's boys as one of the murderers, when the enraged law-abiders stabbed, shot, and clubbed the poor fellow until he lost consciousness. Several persons were arrested for assaulting Nidever, but were acquitted, as were also George and John Nidever, and others arrested on suspicion of the death of Badillo.

The following report was made by the grand jury to the court of sessions September 17, 1859:

"In the case of the people of the state of California *versus* J. Nidever and others, charged with murder, there were thirty witnesses sought for and obtained in different parts of the county, and all the testimony that could be brought to bear upon the case, either directly or indirectly, was obtained. There were such numbers of contradictions and *alibis* proven as rendered the testimony in favor of the state entirely worthless; consequently there was 'no bill found.' In the cases of F. Sayba, J. Gutieruz, Lugo and R. Zuriba, charged with assaulting and shooting George Nidever, there were 'no bills found.' The positive evidence given in respect to two of those cases by Russell Heath and James L. Ord was positively disputed *in toto* by the evidence of José Dolores Garcia. The undersigned believe the testimony of the first two witnesses to be true; we also believe the testimony of the latter to be false. The persons who a little more than a year since robbed and murdered the Basques on their way up the country would not have been punished but for the people of San Luis Obispo, who summarily hanged them by the necks. Cases of horse and cattle-stealing, almost without number, have within the last five years been brought to the notice of our courts; yet in almost every instance unprincipled petit juries could easily be drummed up who would not hesitate in bringing a verdict of not guilty, though the offence had been so clearly proven that it did not admit of a single doubt. Even those who seek office, with now and then an exception, absolutely humiliate and degrade themselves, either by lavish promises to the corrupt, who hold the influence, or by pandering to a set of ruffians. Our elections are a farce, and an insult to common-sense; scores of hombres, of all grades and colors, are brought in front of the polls, whose intelligence and education would not compare with the slaves of the southern states; yet these same hombres receive sealed votes, either from the hands of the influential or their employés, and without opening them or examining their contents put them in the ballot-box. Since the sitting of this grand jury the foreman has had his life threatened by outside vile ruffians. In conclusion, we propose to allude to the state of society as it here exists in connection with the execution of the laws. In a republican government like ours, our system of jurisprudence is established on the broad supposition that at least the majority of the people are notoriously honest, and always ready to maintain the supremacy and majesty of the law, and to assist the courts in its execution. In most communities such is the case. We deeply regret to be obliged to assert that in this county it is widely different. We are of the unanimous opinion, so far as this county is concerned, that the courts, in consequence of the notorious bad characters that are frequently summoned and impanelled to serve as petit jurors, are entirely powerless in punishing crime. Thieves and villains of every grade have been from time to time upheld, respected, fostered, and pampered by our influential citizens, and if need be, aided and assisted in escaping from merited punishment due to their crimes. Characters similar to those just named have frequently been seen sitting beside the wealthy and influential in their carriages traversing our streets, or mounted on the richly caparisoned steeds of these same persons. The virtuous and the prostitute, the cattle-thief and the influential, have been too often seen mingling together at parties and balls. In fact it is with deep regret that we are com-

pelled to publish the fact to the world that the ruling population make little or no distinction as to the character of their associates; if there is any preference it is in favor of the vicious. Offences, thefts, and villainies in defiance of the law, of every grade and character, from the horse and cattle-thief to the highway robber and midnight assassin, have dwelt, to our knowledge, for the last five years in our very midst. Whenever those crimes have been perpetrated on the persons of honest, industrious, and good citizens, the tranquillity of the public mind, so far as the ruling population was concerned, would not be disturbed.

"Only three years since, an American by the name of Moore had quietly settled in Montecito, had erected his humble cabin, and had industriously engaged in fencing a field and sowing a crop in order to gain an honorable support. He was basely murdered while asleep by having his throat cut from ear to ear, and left to welter in his gore; yet the tranquillity of the ruling population was not in the least disturbed. Neither they nor their officers appeared to take the least interest in ferreting the perpetrators of the crime and bringing them to justice; and had it not been for private American citizens, who had him buried with their own means, so far as the authorities are concerned he would have been left like a wild beast to rot where he was murdered. One of the perpetrators of that crime has since been hanged, not by the actions of our courts, to which he fled for protection for other crimes, but by the sovereign people of San Luis Obispo. Previous to his execution he confessed to that and a number of other heinous crimes. We could go on from page to page and enumerate the evils under which we suffer; suffice it to say, good, independent, industrious, and honest citizens are not wanted here by the ruling powers. Could they accomplish it, they would drive us from the country, unless we would degrade ourselves by pandering to their wishes, obeying their orders, and affiliating with their ruffians.

"CYRUS MARSHALL,
"*Foreman of Grand Jury.*

"R. Forbush, A. M. Cameron, William Brick, G. Abadie, L. Loomis, Juan Hill, John M. Haskell."

This report was published in the San Francisco *Herald*, as the Santa Bárbara papers refused it a place in their columns. Serious disturbances were constantly occurring, and the law seemed powerless to protect the rights of citizens. The Santa Bárbara *Gazette* says: "Law there was plenty, law-craft enough and to spare, but organization none at all, save a shadowing of that worst of all organizations, suggested by the example of righteous Los Angeles and law-abiding San Francisco, a Vigilance Committee. The sheriffalty was vacant. The mayor had resigned, assigning as

his motive his incapacity to preserve order. No justice of the peace had qualified. A county judge remained, fully determined to maintain the law; but not a constable was there to execute a warrant. The treasurer and county clerk alone stood over this universal wreck of unfilled office as fitting emblems of a costly system of anarchy." At this juncture General Clark was called upon to bring a small detachment of troops with him to Santa Bárbara, the people urging that the mere appearance of the military would carry sufficient moral suasion without resort to arms. The request was complied with and confidence restored.

In the absence of legal authorities a popular tribunal was organized for the trial of one Sonoreño in San Luis Obispo the 7th of July, 1851. José Castro and W. C. Jones were elected judges, C. Freeman secretary, and W. J. Graves prosecuting attorney. It was agreed that one half the jury should be native Californians and one half Americans. Thus organized the tribunal proceeded to business.

The early days of San Luis Obispo show a busy schedule of crime, and a running sketch of some of the chief episodes of its history will no doubt prove interesting and instructive to the reader:

In the fall of 1863 a band of eight or ten men rode into town and made merry over the fact that they had just murdered a pedler near San Juan and appropriated his goods. They were pursued, one of them killed, several hanged, and the remaining three or four escaped. These were desperate times; not a week passed but that the bodies of murdered men were found by the roadside, and many a cattle-dealer from the upper country met a secret and terrible fate in that bloody land. Early in 1856 a man named George Fearless came down from San Francisco with several thousand dollars and went into the stock business with a New Mexican named Jesus Luna, on a rancho some fifty miles from town. After a few months

Fearless disappeared, and his Mexican partner said that he had gone to the states. Soon selling out their property on the rancho, Luna moved to New Mexico, and shortly after his departure the body of Fearless was found concealed on the place.

Now read the next incident, then put the two with twenty other like deeds unrecorded, with matters every day growing worse, and then say if vigilance committees are wrong:

Two Frenchmen collected a band of cattle and started north. They hired a native Californian named Frolian as their vaquero; this man and Jack Powers the gambler saw a large sum of money paid to the Frenchmen. On Monday, the 30th of November, a horse-race took place at Santa Margarita, twelve miles from San Luis Obispo. Frolian left the service of the Frenchmen that day, and one Nieves Robles appeared in camp and asked permission to accompany the cattle-drovers on their journey as far as San José. The proposition accepted, that night he pointed them out a place to camp near the mouth of the river Nacimiento, a spot that has been baptized in the blood of murdered men. In the morning some horses were missing from the *caballada*, and the Frenchmen rode out to hunt them. They never returned. Weeks afterward the body of one of them was found, the skull perforated by bullets; the body of the other was never discovered. Jack Powers and two Mexican *confrères*, Linares and Rafael, attended the horse-race on the day before the murder, and that evening disappeared. It was afterward known that, in company with Nieves Robles, they had killed the Frenchmen, taking from one of them the sum of thirty-five hundred dollars. They all returned to San Luis Obispo, when Nieves was arrested and tried, but finally discharged. Nothing was done with the others at that time.

In May, 1857, two Frenchmen, Bortolo Baratić and M. Borel, came down from Oakland to reside on

the rancho San Juan Capistrano. Madame Baratié accompanied her husband, and they had two Californian servants. One evening eight men came along, representing themselves as horse-runners, and wished to buy food. The Frenchmen generously supplied them without pay, and that night allowed them to sleep in the building with their servants. The next day one of the band, Miguel Blanco by name, came back alone, stating that his partners were running horses, and asked the privilege of unsaddling his horse, which was allowed him. The Frenchmen were engaged in cleaning out a well, and the servants were cutting hay a little distance away, but out of sight. Baratié left his partner and came round to speak to the servants, Blanco remaining by Borel. Baratié soon heard firing from the direction of the well, and Blanco, having shot Borel, came running round as the other murderers rode up, and fired at Baratié, hitting him in the shoulder. Driving Baratié and the servants to the house at the muzzle of the pistol, they forced the Frenchman to disclose the whereabouts of his money, about three thousand dollars, which they immediately divided among the band. Baratié was then shot down before the eyes of his wife, and she herself was carried away to a place of concealment in the mountains, whence she afterward escaped and returned to Oakland. The Californian servants escaped with their lives and gave the alarm. Two of the murderers were soon afterward caught and hanged in San Luis, making a complete confession of their dark deeds. So bold had crime become in San Luis that villains were often heard boasting on the streets of their bloody deeds, using such expressions as: "How the damned scoundrel fought for his life!" or, "Why, he fired three shots from his revolver after we thought him dead!" with reference to some one they had killed. Many of the native Californians of the southern counties were in league with the murderers, and gave them aid and comfort in every way, rendering it almost

impossible for the ends of justice to be attained. The robbers were completely organized, with their signs, grips, and passwords, and it was only the energetic action of the people, striding over the tangled meshes of the law, that finally broke up the powerful alliance and restored a measure of safety to the persons and property of the public.

In June, José Antonio García, one of the parties concerned in the murder of the Frenchmen near the Nacimiento, was hanged by the citizens of San Luis. He made a confession on the gallows, implicating the gambler Jack Powers in the crime.

Following swiftly upon this event came another, which indicated that the people had at last become aroused. Several of the robbers who had been concerned in the tragedy at San Juan Capistrano, the miscreant Pio Linares at their head, being hard-pressed by the Americans who were pursuing them, took shelter in a dense willow wood on the Osos Rancho, near San Luis Obispo, and were surrounded. The pursuing party attempted to hunt them out, but after having one of their number wounded by a shot from Linares, were forced to desist on account of the approach of night. By the next night over a hundred armed citizens were on the ground, hemming the wood with a cordon of sentries, and the next morning began to beat the brush for the robbers. A battle ensued, in which Pio Linares was killed, and his two Mexican companions, both of whom were participants in the San Juan Capistrano murder, were captured. The citizens had one man killed and two others wounded. The captured Mexicans were openly hanged in San Luis the next day. Considering the reign of terror that had so long existed in that region, and the utter powerlessness of the law to reach the red-handed assassins, these acts of the Vigilance Committee were not only justifiable but eminently worthy of applause.

Nieves Robles was finally apprehended and lodged

in the jail at San Luis, whence he was quietly taken by the vigilants on the 27th of June 1858 and hanged. He confessed his part in the Nacimiento murder, and his statement was fully corroborative of those made by his accomplices who had preceded him on the gallows.

Soon after these occurrences the Vigilance Committee of San Luis Obispo disbanded, considering its work accomplished.

Among the Los Angeles archives I find the following:

"At a meeting of the citizens of Los Angeles held on the 13th of July 1851 at the mayor's office, to consult the public good by organizing a volunteer police, in accordance with the action of the city council, B. D. Wilson, mayor of the city, was called to the chair and L. Granger appointed secretary. The following is the ordinance passed by the city council:

"First, That Dr Hope be named chief of a body of police composed of the inhabitants of this city who may voluntarily think proper to form it, which chief of police will be governed by the orders of the mayor.

"Second, Dr A. W. Hope, in connection with the mayor and the previous consent of the persons voluntarily joining themselves to said police, will proceed to organize said body, naming the subalterns by the mayor and chief of police.

"Third, The sole object of this police will be to guard the security of the inhabitants and the conservation of the peace in conformity with the laws of the state and the last part of Article I.

"Approved. B. D. Wilson, *Mayor.*"

Then follow the names enrolled. At a subsequent meeting officers were chosen and the organization waited orders from the chief of police. This might be called a vigilance committee organized under the auspices of the law; for we may be sure that such a body would never let law stand greatly in their way.

In July 1852 two young Americans came by steamer from San Francisco to San Diego, intending to purchase stock. One was named McCoy and the other Ludwig. They had started on horseback for Los Angeles, when they were overtaken by Doroteo Zavaleta and Jesus Rivas, Mexicans, who entered into conversation with them in regard to trading horses.

Proceeding on their journey, the Mexicans gained the confidence of their companions, providing out of their supply meat for the whole party, and apparently entertaining the kindliest feeling toward them. But the Mexicans' only desire was to murder and plunder, and one night they accomplished their purpose. Rivas asked McCoy for his knife, with which he cut two heavy sticks; then, encamped on the banks of the San Gabriel, the Americans made preparations for sleep. Spreading a blanket upon the ground, they invited the Mexicans to lie down beside them. Zavaleta devoutly replied that he must first say his prayers. About two hours later the Mexicans approached the sleeping men and each simultaneously struck one on the head with a club, and beat them until dead. They secured three hundred dollars, and their pistols, knives, horses, and saddles. The bodies were left unburied. Zavaleta and Rivas were subsequently arrested at Santa Bárbara, with a companion, Carmillo, for horse-thieving. Afterward suspicions of the truth were excited, and an examination was made by a committee of the people at Los Angeles. Carmillo turned state-evidence and repeated what Rivas had told him of the murder of the Americans, and satisfactorily proved his own innocence. Zavaleta was next examined, and after four or five hours of questioning and false swearing, volunteered a full confession of the truth. His testimony was afterward substantiated by his taking a party of men to the scene of the murder, and discovering to them the bodies. Rivas' contradictory statements were also followed by confession. A people's meeting was held at the court-house at four o'clock on Friday afternoon, August 6th, to consider what should be done. They appointed a jury of twelve men to hear and act upon the testimony that had been obtained by the previous committee, which was read to them in English and Spanish. The jury retired for a few minutes and returned with a verdict of guilty of murder in the first degree. It was then

voted unanimously that the accused be hanged the following morning at eight o'clock. It was also decided that Carmillo should be handed over to the civil authorities. The sentence passed upon the condemned was executed at the appointed hour. The gallows was erected upon the summit of Fort Hill, where the men were conducted, betraying no emotion of fear or contrition. After the priest had given them absolution, the prisoners addressed the people. Their remarks were chiefly angry accusations of each other. Rivas advised any who contemplated such crimes as his, either to have no associates or to select brave men, and not cowards who would betray them. At the conclusion of their remarks the final preparations were made, and in fifteen minutes their lifeless bodies were left to the care of their friends. Zavaleta was respectably connected, and was in the prime of life. Rivas was born in Sonora, and was but twenty years of age.

Major-general J. H. Bean, who had served both as alcalde and mayor of San Diego, and who was greatly respected and beloved by the entire community, was assassinated late one evening in November 1852 as he was returning home from his store in San Gabriel. He was riding horseback, when he was suddenly attacked by two men who were awaiting his approach. One sprang forward, and seizing the bridle jerked the horse back upon his haunches, while the other pulled the general from the saddle and threw him violently upon the ground. Bean was a powerful man, and though his assailant was upon him, he rose to his feet and attempted to defend himself with his knife; but he was overpowered by superior dexterity, and was stabbed several times by the ruffian. When he lay dead upon the ground he was shot by the wretch, who rejoiced that he had destroyed the life of one whose influence and wealth had been used in attempts to exterminate the class he represented.

As soon as the death of General Bean became known, renewed efforts were made to rid the neighborhood of the highwaymen infesting it. A band of desperadoes was suspected, and determined efforts made to arrest the leaders and break up the organization. About this time the Vigilance Committee of Los Angeles caused the arrest of several Mexicans belonging to Salomon Pico's band, among others one Reyes Feliz, a young fellow fifteen or sixteen years of age. He was convicted and executed on account of his connection with the band. Feliz made a confession of his crimes, including the murdering of a Mexican, but professed ignorance of General Bean's death, or of any person accessory to it. Upon the testimony of one Ana Benites, a member of Joaquin Murieta's party, who was also arrested, the death-blow of General Bean was charged to Cipriano Sandoval. Ana asserted that Cipriano confessed the murder to her immediately after its occurrence, and she detailed full particulars. Her testimony also implicated Benito Lopez, and both were tried, pronounced guilty, and hanged by the people. Lopez confessed to several murders, and disclosed the spot where the bodies of his victims were concealed. Cipriano Sandoval made a few remarks just previous to his death, protesting to the last his innocence of the murder of General Bean. Both Feliz and Lopez seemed to feel that they had been betrayed by Ana Benites, and advised their companions not to put their faith in women. At the time of the execution of Lopez and Sandoval, another Sonoreño was also hanged. Early that Sunday morning, December 12th, while walking with a companion on the street, he had stabbed and instantly killed him. He was soon afterward arrested, tried at once by the people, and executed with the other criminals at three o'clock in the afternoon. As was stated, Cipriano Sandoval was hanged on the charge of the murder of General Bean. Five years later the sad revelation was made that he was not the murderer.

The real criminal, shielded by rich and influential friends, had died in his own home, but harassed by the terrible secret, he had revealed the truth on his death-bed, and the martyred Sandoval was then known in his true character, as a simple, ignorant, and obscure shoemaker, who had worked soberly and industriously at his trade in San Gabriel. Though the movers in this execution were men of sound heads and good hearts, this fatal mistake shows the necessity of the utmost caution in the use of power.

Insecurity of life, and immorality, prevailed to an alarming extent in Los Angeles in the year 1854. The mission natives had retrograded since left to themselves, and continually gambled, drank, and quarrelled with each other; so that in the morning when natives were found dead in the streets the matter was not considered of sufficient importance to require investigation. There were other classes scarcely superior in many respects to the natives. Gambling disputes were of nightly occurrence, and pistol-shots a natural consequence. A resident of Los Angeles for a short time, says that while he was there almost every night one murder at least was committed, and often two or three, and that the ordinary morning salutation was, "Well, how many persons were killed last night?" "Only four; three Indians and one Mexican," perhaps being the reply. "We have received a letter from a citizen of Los Angeles," says the San Francisco *Herald* in November of this year, "declaring that it is unsafe to go out after dark; and some idea may be formed of the reign of terror that prevails, from the fact that he requests us to conceal his name, as his temerity in even complaining of these things might cause him to be victimized. If the authorities are so inert as to permit murderers and outlaws to run riot, why do not the people of Los Angeles establish a vigilance committee and make some examples? San Francisco was once quite as

unsafe as Los Angeles, and it would probably be so still but for the decisive measures taken by its citizens. We see no other cure for the dreadful condition of Los Angeles than the organization of an energetic vigilance committee. One thing is certain: nothing could be worse than its present plight, and it would therefore be safe to make the experiment." The Los Angeles *Star* of the 30th of November admits the truth of the statement as to the condition of the city, but denies the necessity of a vigilance committee. Having confidence in their officers, nothing was required of the people, unless it were to help the officials—which strikes an impartial observer as somewhat absurd; for why should anarchy and riot reign in the midst of efficient officers and good government?

There was one David Brown, who on the 13th of October, without provocation, killed a companion named Clifford. He was arrested, legally tried, and sentenced to be hanged with one Alvitre. The people during the trial organized a meeting, determined themselves to try the case of Brown, but were dissuaded by the mayor, Stephen C. Foster, who was anxious to give the courts one more chance for speedy administration of the law, promising that, in case the prisoner escaped by any quibble or trick, he would resign his office at once and join the people in the summary punishment of Brown. The citizens were satisfied with the action of the court, and awaited the execution of the law. But on Wednesday the 10th of January 1855, an order from Judge Murray of the supreme court was received, staying the execution of Brown. On Thursday evening an immense gathering assembled at the Montgomery Saloon, with Colonel McClanahan in the chair. Several speeches were made, among others one by Mayor Foster, in which he unequivocally declared himself in favor of hanging Brown and Alvitre together. The following

from the *Southern Californian* is an extract from a lengthy article read to the meeting and received with enthusiastic applause:

"Citizens of Los Angeles! 'Tis for you to say whether the gross and outrageous partiality shall be allowed; whether you will permit so flagrant and glaring an evidence of the omnipotence of birth and condition to operate in widening still further the breach that already exists between our native and foreign population, so prolific of future disaster to the community."

In speaking of the trial of Brown, the editor continues:

"Our own court has done its duty manfully, unshaken by and oblivious to all influences save those of law and justice. The trials have progressed and ended, and richly merited punishment awarded; and our citizens, gladdened beyond measure at this evidence of a new order of things, were looking forward to a future fraught with hope and better things."

The next afternoon, Friday, the 12th of January, Alvitre, accompanied by Sheriff Barton with a large armed force, was led into the jail-yard to the gallows, where at three o'clock he was executed, though the poor fellow fell to the ground from the noose untying before death ensued, and was obliged to have the rope readjusted and to be again suspended. Thousands of people witnessed the execution, and there was serious apprehension that resistance would be made to the sheriff, who refused to deliver Brown. The cannon had been spiked on the previous night and every precautionary effect taken by the authorities. After the execution of Alvitre the scaffold was taken down and the armed force disbanded. The crowd then gathered outside the jail, and addresses were made urging the seizure and execution of Brown. Mayor Foster resigned his office, and incited the people to proceed. Captrin Hunter then asked all in favor of the measure to follow him. Led by Hunter, Foster, and McClanahan, the crowd moved on into the jail-yard and to the cell of Brown, where with axes the door was battered down and the prisoner brought out. Another murderer, condemned to be hanged in February, was in the same cell, but he was left unharmed. Brown was

conducted to a large gate-way opposite the court-house, where a rope was suspended from the cross-beam, with a chair placed underneath. While Brown stood on this somewhat novel platform having the rope adjusted, he kindly informed the crowd that they did not know how to hang a man, and requested they should permit him to show them. His cool indifference was maintained to the last, when he kicked the chair from beneath his feet and was quickly strangled. A few days later Stephen C. Foster was reëlected by a large vote to the position of mayor, which he had resigned to further, as he thought, the ends of justice.

At Los Angeles a great excitement arose from the rash shooting of Antonio Ruiz on the 19th of July 1856 by a deputy constable named Jenkins, who met with some opposition in the service of a writ of execution for the sale of Ruiz's property. Jenkins surrendered himself and was admitted to bail. Next day Ruiz died, and the Spanish population were indignant that Jenkins, whom they regarded as a murderer—for Ruiz was a quiet, well behaved man, and had not given the officer sufficient provocation to justify him in the killing—should be at large. On application by the district attorney to Judge Hayes, Jenkins was incarcerated, but the people had by this time become so excited that they threatened the jail.

Ruiz's funeral was the largest that had ever taken place in Los Angeles. After the services were concluded, the immense crowd convened near the grave was addressed by a Frenchman and others, who threatened vengeance on the Americans. Their threats were of such a character that the citizens were notified and active preparations made for self-defence. The following extract from an affidavit, subsequently made by Judge William G. Dryden, shows clearly what apprehensions were entertained: "About four o'clock on Tuesday, July 22d, a Californian came to my residence in the city of Los Angeles and told

me he had just learned that on that Tuesday night after eight o'clock an attack might be expected in the city by the Sonorians, in connection with the French and some Dutch; that they were about six hundred strong, and that if I wished to save my life I had better take my horse and conceal myself on some rancho; that they had just attempted to take his horse, but desisted when he told them it was very tired, being just from a rancho. This Californian said that the object of the attack was to destroy all the Americans; he said nothing about the attack on the jail. He told me that he made this communication because he felt toward me like a brother. For four or five nights I could hear the Mexicans riding about the streets singing their *refranes*, the burden of which was of war, repeating the word *Americano;* could frequently also hear the word *venganza*."

Immediately upon receiving the above information from the Californian, Judge Dryden called on Judge Hayes, and together they visited a committee representing the assemblage at the cemetery. The judges, accompanied by this committee, went to the jail, which they found surrounded by Mexicans. The sheriff's and the judges' promises quieted the people, and they dispersed. On the following morning, Jenkins was brought before Judge Hayes for preliminary examination. In writing of this affair the judge says: "Thirty men armed with muskets insisted upon guarding the court-house. Thus I had to sit on this occasion with soldiers on the outside and this same committee occupying the jury-box, to see, as I understood, that the judge did justice. All other persons were excluded. The judge and prisoner, his attorney and witnesses, one feature of the picture; soldiers on the left, a committee, to all intents and purposes, on the right." That evening after the formalities were concluded, judges Hayes and Dryden attempted to investigate matters, visiting Mexicans for this purpose, but no information could be obtained. They

began to think the alarm was without foundation, when the bright moonlight suddenly discovered the rendezvous, on the hill, of a large force. Only waiting long enough to secure for his family a place of safety, where already many families had congregated, Judge Hayes joined the citizens who had armed and organized. All through the night the citizens were on the alert; horsemen were galloping up and down the streets, carrying messages back and forth from one section of the town to another. They would not be the aggressors, but were prepared to be merciless in their retribution if once attacked. About midnight, while Marshal Getman, with a company of footmen, was riding near the hill, where some two or three hundred of the belligerents were assembled, he was attacked and obliged to retreat. Afterward four Mexicans shot at him, and he fell; then they rode by, firing at him as he lay upon the ground. The attack having been made, the military were ordered to the plaza, but, inefficiently organized, they were some time in reaching the spot. The insurgents in the mean time disbanded; their patriotic ardor and their vindictive purposes seemed to have been sunk into oblivion from excessive drink, and there was no further demonstration made by them that night.

The citizens on the following day received reënforcements from El Monte, and strong military power was secured. There was a feverish excitement for some days, but with the militia ready for action, if needed, the fears of the people at last subsided.

The examination of Jenkins by Judge Hayes resulted in his being sent to the grand jury for trial, with bail fixed at three thousand dollars. At his final trial he was exonerated from blame and released.

For many months Los Angeles County was victimized by organized banditti, probably one hundred in number. They threatened the extermination of the Americans, and a war of races seemed about to be

inaugurated. Many ineffectual attempts had been made for the arrest of the leaders of the gang, which was at last accomplished by the sacrifice of some of the lives of Los Angeles' best citizens. In January 1857 one Garnet Hardy started for San Juan with a fine team of four American horses. He reached his destination in safety, but was told that the banditti were in that vicinity and were more reckless than ever, and that he could not return alive. Hardy sent this information to his brother in Los Angeles, whereupon a party was organized by Sheriff J. R. Barton to start in pursuit of their much coveted prey. William H. Little, Charles K. Baker, Charles F. Daley, Frank Alexander, and Alfred Hardy volunteered their services, and an unarmed Frenchman acted as guide. In the mean time the banditti were committing robberies and murders in a most defiant manner. Several instances might be given, but one will suffice: They entered the house and store of George Flughardt, where they at once brutally murdered the proprietor, and then, while securing their plunder, ordered Flughardt's assistant to serve them a good supper, which they ate with a relish while the body of their hapless victim lay outstretched before them.

On Friday morning the 23d of January 1857, the sheriff and his little force arrived at Sepúlveda's rancho, where the Frenchman had been employed many years as vaquero. From the Mexicans he learned that fifty of the banditti were at that time among the mountains, and that an attack upon them would be sure death to the Americans. Nothing daunted they dashed on, for they were close upon their prey, whose numbers they thought were undoubtedly exaggerated. Having advanced about twelve miles, at a spur of the San Joaquin Rancho Mountains a man was seen galloping rapidly away. Little and Baker rode forward to keep him in sight, when a band of twenty men rushed out from between the hills and fired upon

and killed them. Barton and the others rode quickly forward, but were at once surrounded. The four charged valiantly upon the robbers, whose overwhelming numbers soon ended all resistance, not, however, until three of the banditti had fallen. Hardy and Alexander alone escaped; they recognized their danger, and owing to the superior fleetness of their horses eluded pursuit.

Information of the disaster was at once conveyed to El Monte and Los Angeles. On the following day the bodies of the four men were found. They had evidently been fired upon after death. Their watches were gone and all their pockets empty.

Sheriff Barton was one of the bravest and most conscientious of Los Angeles' officials. His life had been endangered many times, but his duty was never neglected on account of personal danger. Three years previous, when Brown was in his custody, he valiantly refused to deliver him to the people, though from his will, discovered after his death, it was seen by the date, January 11, 1854, the night previous to the execution of Alvitre, that he realized that his life was jeopardized. Barton and his associates were eulogized by the local press as among the noblest and most respected of their fellow-citizens.

Deliberate action was taken for the arrest of the ruffians. It was determined that a large company should be formed, and, divided into detachments, should attack the robbers in their mountain fastnesses. One division was composed of El Monte men, twenty-six in number, commanded by Bethel Coopwood; another was of native Californians under command of Andrés Pico, who, starting from Los Angeles with nineteen men, was reënforced at Pio Pico's rancho and elsewhere, so that he had a company of fifty men in all. He also secured the valuable services of forty-five natives, with their captain, Manuelito, by whose aid the mountain passes were effectually guarded. The third company was under command

of James Thompson, and numbered originally twenty-seven men; likewise Thompson received the coöperation of United States troops from Fort Tejon, which he stationed most advantageously at San Fernando Pass, Simi Pass, Scorpion Rancho, and on the main Santa Bárbara road.

The first step taken by Andrés Pico was to send native spies into the mountains to discover the hiding-places of the robbers. Acting in concert with El Monte men, their force numbered over one hundred. The spies returned and reported the camp situated at the head of the Cañada de Santiago, and that if an assault could at once be made the whole band would be captured. It being a dark night, they were obliged to wait until early morning, when as they were making an advance they saw Juan Flores watching their movements from an overhanging rock. He was beyond the reach of attack, and proceeded on farther and higher with his men, of whom all but two were on horseback. The mountains in which the Mexicans had taken refuge were almost inaccessible even on foot, and while the Americans were following, they were eluding pursuit by most reckless daring. Juan Flores, Jesus Espinosa, and Leonardo Lopez, on mounted horses, slid down a precipice to a kind of projecting ledge fifty feet below, where, abandoning their animals, by the aid of brush growing upon an almost perpendicular wall, they descended five hundred feet. Then escaping into an adjacent mountain, they continued their course through dense chaparral. Francisco Ardillero and Juan Silvas, afraid to undertake the desperate venture of their leaders, were captured by the guards.

The trail of Flores and his companions was discovered. Seeing that they were pursued, they concealed themselves in a cave in the Cañada, but overpowered by numbers they were at last captured on Sunday, February 1st, and taken to the rancho of Teodocio Yorba, six miles distant.

The glad news of their capture was quickly followed by the exasperating intelligence of their escape. It seems that, though bound and under guard, they slipped away in the darkness of midnight, and notwithstanding their flight was immediately discovered they were once again free men.

The disposition of Thompson's party has already been mentioned. On the following Tuesday, February 3d, a Mexican searching for water was suddenly accosted at Simi Pass by two soldiers, who with levelled guns ordered him to dismount, which he at once did. His horse was a miserable mustang, and the man unarmed. In reply to questions he gave his name as Sanchez, from San Fernando mission, and said that he was hunting horses. Upon being taken into camp he was recognized as the redoubtable Juan Flores. His companions escaped for the time, but retribution eventually overtook most of the band. Flores was wounded in the right arm by his own gun, which exploded when leaping over the precipice. Mr Thompson brought his prisoner to the jail at Los Angeles, attending him, at his own request, to his cell. The sight of the assembled people seemed to destroy his self-possession, which was regained, however, when he found himself in the hands of the law.

At the time of Flores' escape from the guard on Sunday night, Andrés Pico became alarmed for the safety of his prisoners, Silvas and Ardillero, and determined upon their immediate execution. They were hanged about twenty miles from the place of their capture. Many hardships were endured by the volunteer corps in their hazardous undertaking. They were eleven days searching the country for the fugitives. Fifty-two men were captured and lodged in the Los Angeles jail, and these once formidable banditti, at last rendered powerless, were disbanded. All of those arrested were tried, but little could be proved against them, and the larger part of the prisoners were discharged for want of evidence. The most

prominent among the criminals executed was Juan Flores. After a week's imprisonment the people assembled to decide his fate. It was proposed that he should be immediately executed, to which suggestion the crowd gave its unqualified approbation. Meanwhile several persons mounted a platform and harangued the people, advising them to execute at the same time three Mexicans, two of whom had robbed a horseman in the Tejon, the third having attempted his assassination. This proposition was subjected to vote, resulting in a small majority in favor of leaving them to the disposition of the courts.

The people now directed their way to the prison, where Flores awaited his fate. He was a young man of prepossessing appearance, and but twenty-two years of age. Dressed in black coat, light vest, and white pants, and with aspect subdued, there was nothing to indicate the formidable desperado of a fortnight ago. He acknowledged his blood-guiltiness, but said that Pancho Daniel was the leader of the gang rather than he. Two priests accompanied the prisoner to the scaffold, which was erected on the hill, a quarter of a mile distant, where an immense crowd had congregated. Companies of Monte men, Californians and Frenchmen, mounted and on foot, were prepared to enforce order if necessary. Flores preserved a calm demeanor to the last; he himself adjusted the rope, which unfortunately was badly done, causing him much suffering.

On the 2d of February a young fellow of but eighteen, Jesus Espinosa, was captured and executed at Santa Bárbara. He was one of Flores' confederates, escaping pursuit as before described. He freely confessed to Father Serrano his guilt.

Another of the gang, one Berryesa, was also hanged a day or two later by the people. He had been executed, as was supposed, in Santa Clara County, and his body delivered to his friends, who, however, had

effected his resuscitation. Since then he had committed other murders. The marks of the rope about his neck were plainly visible at the time of his final execution.

On the 29th of January, Miguel Soto and others attacked Cyrus Sanford at San Gabriel mission. Sanford returned the fire, shooting Soto in the thigh. Soto then took refuge in the marsh near by, covering his body with weeds and mud. Several citizens now came to Sanford's assistance, and setting fire to the weeds soon exposed Soto to view. He was at once shot. His companions were subsequently arrested. They were named Juan Valenzuela, Pedro Lopez, and Diego Navarra. These banditti were among the first on whom fell vengeance for Sheriff Barton's death. They were led out to be hanged, but the rope proving too short they were shot.

The citizens of Los Angeles were no less surprised than delighted to see the carcass of the notorious bandit Pancho Daniel hanging in the gate-way of the jail-yard on the morning of the 30th of November 1858. By his band four of Sheriff Barton's *posse*, in undertaking their capture, had been killed nearly two years before, as already described. A reward of twenty-five hundred dollars had been offered by Governor Johnson for his arrest, and fifteen hundred dollars additional by the citizens. On the 19th of January 1858 he was captured by the sheriff, who found him in a hay-stack near San José. After his arrest part of the time he was confined in prison and part of the time at large on bail; he had undergone three attempted trials in the courts, and the last move was a change of venue to Santa Bárbara; in other words, the law had concluded to let the robber loose.

The patience of the people was exhausted. It was simply infamous, this prostitution of the law by its ministers for the subservience of their own selfish

ends. A hundred dwellings might burn, a hundred travellers might be stopped upon the highway, so that the pettifogger secured his fee and the judge his salary. Of the greatest advantage to thieves was such administration of law: better far for them than if there had been no law. For if no law against stealing existed all the world would turn thieves, and there would be no one left to steal from. As it is, all the robber must needs do is to steal enough, then divide the plunder with his attorney, and he is free. The exactions of the law, so far as he is concerned, are only a protective tariff which secures him against ruinous opposition in his business.

The people of Los Angeles concluded that the farce had lasted about long enough; so one night about two hundred and twenty of them met and resolved that before the sun rose again the Pancho Daniel venue would be changed to a point farther away than Santa Bárbara.

Luckily the sheriff was absent hunting Andrés Fontes, one of Daniel's band, who had been seen lurking in that vicinity. Attention generally was attracted in other directions. There was Banning's new steam yacht from San Francisco, and quite a concourse of people, accompanied by the brass band, had gone to San Pedro to celebrate its arrival. An emigrant train had just come in. Then there were many strangers in town on their way to and from the Gila mines, whose conversation drew attention toward that quarter.

Part of the two hundred and twenty thought they should enjoy sleeping in a corral near the jail; so they tried it. The others, fascinated by the charms of an early semi-tropical morning, rose before the break of day and strolled toward the jail, common attractions seemingly lying in that direction. But just before reaching the spot whither they tended, singularly enough they all disappeared, vanished into thin air; so that when the old methodical jailer just at dawn, as was his custom, appeared with his basket on the

way to market, not a soul was to be seen. Before he had taken twenty steps, however, from the gate which he had just carefully locked, many were to be seen. He thought he saw a thousand, but there were only two hundred and twenty.

The old jailer at once permitted himself to be overpowered by numbers, and the key to be gently wrested from him by the courteous though resolute citizens. The law loves verbiage, and this limb of it wished the outrage to be consummated in every particular, though with whatsoever degree of gentleness and affability the outragers should please. The two hundred and twenty, with the key in their hand and the jailer their prisoner, had but to finish their work, which they did so quietly as not to disturb the morning sleep of any in Los Angeles. Commenting upon another case, the Los Angeles *Star* of October 19, 1861, says:

"We have ever been, and still are opposed to mob law; but if ever an occasion can arise when the righteous indignation of a people will prompt them to the instant punishment of an enormity whose hellish atrocity appalls the stoutest heart and shocks the moral sensibilities of the most obdurate or the most obtuse, the present is that occasion. Here is the story: A young man, a Californian named Francisco Cota, living with his mother on Spring street, was observed sharpening a knife, and in reply to a question as to its intended use, he said he wanted it to cut up meat with. On the following day, Thursday, he entered the grocery store of Lorenzo Leck, and gave an order to Mrs Leck, who was alone at the time, her husband and his clerk being away for the day. As she turned to obtain the goods, Cota stepped up and struck her on the neck with his knife, almost severing the head from the body. Then stabbing her again two or three times, he fled, covered with her blood. Some few minutes elapsed before the murder was discovered, although perpetrated in the middle of the forenoon and in a populous neighborhood. The alarm was given by a little daughter of Mrs Leck, but five years of age, who ran into a neighbor's house, frightened and crying, with her baby-brother clinging in terror to her hand. The child said her mamma was on the floor with her head cut off. As soon as the dreadful truth became known thorough search was made for the murderer. He was found in a house near the military camp, under a bed; his knife was discovered, concealed between the mattresses, and his bloody clothing marked his guilt. He was placed in a wagon and conveyed to the jail, the greatest difficulty being experienced in preventing his seizure by the people. A public meeting was held in the afternoon, handbills having been issued asking the citizens to meet at the Lafayette Hotel at three o'clock. A committee, appointed for the purpose,

waited upon the authorities, who promised an immediate examination. The prisoner was at once brought before Justice Peterson, who, allowing him until ten o'clock the next morning to procure counsel, ordered his removal to jail. As the officers with the prisoner were emerging from the court-room, they were surrounded and seized by a crowd, and hurried off to Alameda street, meeting with some resistance on the way from citizens who undertook to rescue the prisoner, repeatedly cutting the rope with which he was bound. Their efforts were unavailing, as the lifeless body of Francisco Cota, suspended from the cross-bar of a gate-way, soon attested. No reason could be assigned for the murder, perpetrated coldly and with premeditation, upon a woman who had never injured or even provoked him, to any one's knowledge."

John Rains was a prominent resident of Chino, San Bernardino County. He was estimated to be worth two hundred thousand dollars, and owned the Comongo Rancho. On the 17th of November 1862, as he was travelling alone and unarmed, he encountered several men, one of whom inquired where he was going. Rains replied, "To town." "I think not; we've got you now!" was the rejoinder, and immediately he was fired upon by the assassins, who jerked him from his horse by one arm. As he was still able to make resistance, they lassoed him and dragged him across the road into the bushes, where his body was afterward found, bearing marks of most brutal treatment, his clothing torn off, and one boot lost in the struggle. The murder was committed for the sake of plunder.

Upon suspicion of participation in this crime, Manuel Ceredel was arrested. Taken ill with small-pox, and thinking himself about to die, Ceredel disclosed all the particulars of the conspiracy against Rains, in consequence of which several parties started in pursuit of his confederates, arresting five or six, who were identified by Ceredel. Recovering somewhat unexpectedly, Ceredel was tried and sentenced to ten years in the state-prison, a decree that did not satisfy the people. While in the hands of the sheriff, on board the steamboat *Cricket, en route* for San Quentin, the prisoner was seized by the Vigilance Committee of Los Angeles and hanged to the yard-arm. After remaining there for about twenty minutes, the body was

taken down, some stones were tied to the feet, and it was thrown overboard. Between betrayed comrades, small-pox, state-prison, and vigilance, further residence on this planet seemed for Ceredel impossible.

On the 5th of February 1864 Santiago Sanchez was hanged for the murder of Manuel Gonzalez. He admitted his guilt, but protested that his arrest and execution were to gratify the spite of Americans who suspected him of the murder of John Rains, a charge of which he was innocent. In June 1864 José Ramon Carrillo, while riding with a Californian on the highway near the stage station Cucamongo, was shot by a man in ambush, who escaped without having been seen. The cause of the cowardly assassination was attributed to the suspicion that had always been entertained that he was accessory to the murder of John Rains in November 1862. Although he had twice surrendered himself to the authorities for trial, his examination and release did not remove the feeling entertained by the friends of Rains, and Carrillo had felt his life endangered ever afterward. His assassin was never known.

On the 15th of November 1863 an affray occurred on the streets of Los Angeles, when officer Hester, in endeavoring to make an arrest, was brutally beaten by a noted highwayman, Boston Damewood, who was assisted by his allies. The next morning the sheriff with his *posse* arrested five desperate characters, but in doing so was fired upon by their friends. In the fight that ensued one of the ruffians was killed and another wounded. The names of the prisoners were Boston Damewood, José Olivas, Chase, Wood, and Ibarra. Each had a history of crime. Damewood, the most notorious, was at one time on the police force in Los Angeles. Leaving the profession of detecting crime for the more alluring one of committing it, he proceeded to Colorado and there murdered a miner, from whom he obtained a large sum of money.

At the time of his arrest a committee from La Paz was appointed to bring him to their territory, where his crime could easily be proved. The second in order of vice was Olivas, undoubtedly the murderer of one John Sylvester at Tejon several years before. He was tried at the time, and though the circumstantial evidence against him was of the strongest character, he was acquitted. His subsequent career stamped him an unconscionable villain. The third, named Chase, was a notorious horse-thief, whose arrest had been long predetermined. Wood and Ibarra were highwaymen recently released from prison.

Judge Hayes received intimation that the people had threatened to take the prisoners from the jail and execute them. Accordingly he issued a call for additional aid from the local and military authorities. Before his request could be complied with the jail was surrounded on the 21st of November by two hundred armed citizens, who forced the iron doors and seized the five prisoners above mentioned. Leading them to the corridor in front of the old court-house, over the beams of which ropes had been placed, they hanged them all.

John Sanford, a prominent citizen of Los Angeles County, while riding in a buggy to his sheep-ranch on the 6th of December 1863, overtook two pedestrians, one of whom, Charles Wilkins, had been employed for several months in the vicinity of Fort Tejon as sheep-herder. Sanford spoke to Wilkins, and engaged his services on the spot; taking him into his buggy, he proceeded on his journey. After riding a few miles Sanford stepped from the buggy, leaving his loaded pistol lying on the seat. Wilkins picked up the weapon, seemingly suggestive of unpremeditated crime, and while the owner's back was turned shot him dead. Then rifling his pockets, he mounted one of the horses and rode off. A week after Wilkins was captured at Santa Bárbara and brought to Los An-

geles where he was legally tried. He was indicted before a special grand jury; and while being brought into court for trial before Judge Hayes, a brother of Sanford attempted to shoot him. Assassination failing, Wilkins pleaded guilty, and at the conclusion of the trial, in which he was convicted of murder in the first degree, the court-house was ordered cleared, and the prisoner remanded to jail to receive his sentence the next morning. The people, apprehensive of his possible escape, made a rush into the court-house, and taking the prisoner into their custody, carried him to Banning's corral, where they hanged him at a gateway. This was the seventh man within a month who had been executed by the Vigilance Committee of Los Angeles. The confession made by Wilkins soon after his arrest gives indubitable proof of his diabolical character. He said that he killed Sanford, thinking he might have some money; he did not know that he had any, but took the chances, and secured only twenty dollars. In reply to the question if his conscience troubled him, he said, "No; I have killed eight other men, and think no more of killing a man than a dog." He stated that he was an Englishman, and that his parents were Mormons, living at Salt Lake. He was but seventeen years of age when he committed his first murder. He was implicated in the Mountain Meadows massacre, in which he obtained several thousand dollars. Afterward he killed one Blackburn, getting his money and mules. Wilkins was a noted horse-thief. He stated that he and two companions were pursued by a party from Los Angeles and San Bernardino two years before, who followed them through Cañon Pass, overtook them, and recovered forty horses. His companions were captured and sent to the state-prison, but Wilkins escaped to the mountains, and then went in pursuit of further prey. A series of crimes resulted in his arrest at San Luis Obispo, and subsequent confinement in the state-prison. He was the leader of sev-

eral in breaking from the prison, and helped to hold Lieutenant-governor Chellis before the guns to prevent being fired upon by the guard. He was near Yreka in 1862, with a Mexican who had escaped from prison with him, when they met two men, one of whom was a drover named Carr. These men they proposed to kill and rob. Wilkins said he would shoot Carr, whom they supposed carried the most money, for, he boasted, "I never miss my man." The Mexican bungled his job badly, shooting four or five times and then permitting the man to escape. Nevertheless they obtained three thousand dollars from the body of Carr, and evaded detection.

About six weeks before his final arrest Wilkins was at the Bella Union Hotel in Los Angeles, where he stole a revolver and a knife, which he gave to a young man named Woods and told him to go out on the road and earn his living with them rather than hang about the dance-houses doing nothing. Woods went, but his career was a short one; for he, with an accomplice, Ibarra, was arrested by the Vigilance Committee and executed with three others, as before mentioned.

While Michael Lachenai lay in prison for the murder of Jacob Bell and other villainies which he was known to have committed, the Vigilance Committee of Los Angeles assembled at Sterne Hall to the number of three hundred. This was the morning of the 17th of December 1870. It did not take them long to agree unanimously that Lachenai should be hanged, and that immediately. At eleven o'clock the committee proceeded in three divisions to the jail. On their way, as they marched through the streets, they were joined by about a thousand citizens, who encouraged them by their unqualified approbation. A half hour was consumed in battering down the jail-doors. Then entering the cell of Lachenai, they threw a rope round his neck and led him to a place two squares distant, where they hanged him. He was pre-

viously allowed to make a few remarks, when he confessed his guilt, but expressed no contrition. The sheriff and his officers made all possible resistance, but could not obtain the coöperation of any of the citizens, as all were in sympathy with the Vigilance Committee. This was the first important action taken by a newly organized Vigilance Committee, which was formed that month, with Signouret as president. Though at so late a date, when justice had been administered in their courts for a quarter of a century, it was composed of over five hundred of the best and most influential citizens in the place. In a card which they published they defined their position and purpose in the following terms:

"Our object in thus associating together is not to inaugurate mob law, as we most sincerely regret the necessity that compelled the organization. We do, however, now that the society has been organized, intend to protect the life and property of innocent persons to the best of our ability; and whenever, in our judgment, after mature deliberation and without haste, any assassin has been set free where the evidence should have convicted him, then, and not till then, shall we meddle with the course of the law. We are not actuated by any blood-thirsty motives. Our actions are based upon the principles of humanity and justice, and we do not intend to depart from them; and while we, as law-abiding citizens, are in duty bound to venerate the laws under which we live, and be subordinated to the government, we cannot and will not submit to incompetency and imbecility in those who have been placed in power to administer these laws; and in the carrying-out of these stern resolutions we pledge our lives, our property, and our honor."

Others took a very different view of the matter, as the following from the Oakland *Transcript* testifies:

"A communication in the Los Angeles *News*, in answer to the recent pronunciamento of the Vigilance Committee organized there, thus comes out upon the Regulators: 'Is it right in the sight of God or man for any set of men to band together to commit murder? If the committee wished to bring offenders to justice, they should have organized under the law, and in aid of its administration. Moral reformers should not set all morals and all law, human and divine, at defiance. In their first manifesto the committee say in substance that they do not intend to take any further action unless, after trial by the courts, there is a failure of justice. Decidedly not! That is, after trial in the district and supreme courts a party is tried and acquitted of the charge of homicide or other crime, a committee of confessed murderers will sit in judgment of the case and reverse the decision, and hang the accused

and acquitted if the judgment of the courts does not square with their ideas of right and law. Surely a blood-stained Daniel has come to judgment. If an honest jury and learned judge mistake the law, is society any safer in the hands of an ignorant association of green-grocers? If a learned judge errs, it is not very probable that he will be improved upon by a dealer in old clothes, or that the old-clothes man will be any more honest than a sworn juror. It was poor policy for the committee to court discussion in the public press. They are tolerable stranglers but very bad logicians. The sooner they hide themselves from the light of day the safer they will be.'"

These views accord with the opinion of a large and highly respectable class in the community, but it seems to me comprehensive and candid research points to different conclusions. Situation and circumstances are too often lost sight of. Setting these aside in the present instance, and regarding the question in the abstract, is it right to band to commit murder? that is to say, to execute capital punishment? Decidedly yes. The judge upon the bench is but the representative of men banded together to "commit murder;" the jury, in this sense, band to commit murder. The law is but a machine made by the people; if it works well, so much the better for all concerned. Those who made it rejoice in the perfection and efficiency of their handiwork as much as any one; if it fails in its purpose it is folly stubbornly adhering to it to the demoralization or destruction of society. In order to the right comprehension of this subject, the superstition of the fixedness and fatality of forms of law, amounting to unapproachable, untouchable necessity, must be dispelled. Those who made the law have the right at any moment, formally or informally, legally or illegally, to abrogate it. The necessity to adopt extreme measures is always to be deplored, is always deplored most of all by those resorting to it. But if they have not the right to throw aside a worthless machine, then the machine is greater, more inexorable and divine than the maker, which is absurd. That district and supreme courts are beyond the comprehension or control of the people is but another form of the same superstition. Judges and

juries are proverbially uncertain and liable to error. The people, acting *en masse*, are likewise subject to mistake; but the people, being sovereign, are unrestricted by forms which too often hamper judges and trammel justice. If the people are sovereign at all, they are sovereign always; if they have the right to make laws, they have the right to suspend or annul them, formally or informally, if they possess the power and inclination to do so. The people are sovereign, yesterday, to-day, and forever. God invests them with this authority, and that without intervention of pope or potentate. It is better to have a settled policy in everything and work up to it; if the policy is bad change it, without interference with custom and habit if practicable, but if necessary at once and arbitrarily.

CHAPTER XXX.

INFELICITIES AND ALLEVIATIONS.

Like one that on a lonesome road
Doth walk in fear and dread,
And, having once turned round, walks on
And turns no more his head,
Because he knows a frightful fiend
Doth close behind him tread.

Coleridge.

NOTWITHSTANDING the strength and dignity given to justice by the more calm but no less determined tribunals of the larger cities, mobocracy was still the almost universal remedy throughout the mining and agricultural districts. Much machinery was out of place where there were no jails, and there was a directness about the business most refreshing when a criminal was caught, tried, and executed all within an hour. Nor was it always convenient or possible to organize; hence justice continued to be administered in various localities in the form and spirit of mobocracy. I will now continue the chronological record of such instances as have come under my observation from June 1851, where it was dropped in a former chapter.

To the outward observer the lines between vigilance and the mob spirit were not in every instance clearly apparent. For example, when two Indians and two white men were publicly whipped at Benicia the 15th of July 1851 for robbing trunks and stealing horses, the latter being likewise branded on the thigh, the actors may or may not have been members of a vigilance committee.

An Indian who on the 1st of August attempted to shoot a Mr Verro, was taken to Johnson's rancho, tried before a jury of the people, sentenced to thirty lashes, and the punishment inflicted before a large number of his tribe there present. Considering the circumstances the punishment was mild. In many localities the firing at a white man would have involved the massacre of the entire ranchería of the natives who did it. Notwithstanding which, if every white man who had unjustly or unjustifiably shot at or shot an Indian had been given thirty lashes, there would have been many sore backs in the great west, to say nothing of the east, during the period of its pacification, and subsequently.

At Ophir a man named Haynes was arrested and tried by the people the 6th of August on the charge of robbing a miner of four hundred dollars. The evidence was wholly circumstantial, and the jury could not conscientiously convict the prisoner. Without intending to hang him, they thought possibly they might extort a confession of guilt. Taking the man to a tree near by, they threw a rope over the limb and told Haynes to prepare for death. It was a ghastly joke. The poor fellow protested and prayed, and finding they could get nothing out of him, his tormentors finally let him go. A very moderate mob.

In the prison at Monterey on the 9th of August occurred a killing which approaches nearer to murder than does even mob law. William Otis Hall, *alias* Bill Woods, had been adjudged to death by the people the April previous for horse-stealing. Rescued from the mob by the authorities, Hall was lodged in jail. Making his escape, he was retaken, tried, and sentenced by the court to four years' imprisonment. About midnight of the date first named a party of eight men, masked, with *serapes* thrown about them, broke into the jail, gagged and bound Marshal Clapp, pinioned the prisoner, then winding a hide *reata* round his neck they tightened it to his death. This act was

condemned by the entire press throughout the state. From the evidence before me I am inclined to the belief that the perpetrators of this deed were not citizens of the place, but accomplices of the prisoner, who adopted this means to prevent confessions implicating themselves.

On the 10th of this same month James Graham and Alexander Leslie went out prospecting and hunting in the hills near Greenwood Valley. Leslie carried on his person six hundred dollars, of which circumstance Graham was cognizant, and he determined to obtain the money. Falling a little behind, Graham pointed his gun in the direction of Leslie and fired, the shot just grazing Leslie's hair. Graham hastened to apologize, saying that he aimed at a squirrel. But shortly after, while Leslie was stooping to pick up his mining tools, Graham fired again, with better success, the ball entering Leslie's body. Rifling the victim's pockets, Graham started for San Francisco, where he deposited the stolen gold-dust, with twelve hundred dollars of his own. Leslie's absence excited the suspicions of friends, and they pursued and captured Graham, who denied all knowledge of the fate of Leslie. In the mean time Leslie, though left for dead, was not mortally wounded, and revived sufficiently to make his way after some days back to town. When he confronted Graham, as denial was no longer of use, Graham explained that the shooting was accidental, and supposing Leslie was dead, he thought he could make as good use of the money as any one. The explanation did not satisfy the miners, and Graham's death was at once determined upon. To use the language of the times from the mouth of a by-stander, "They gave him a big drink of brandy, set him on a box in a wagon, ornamented his neck with a hempen tie, and sent him cross-lots to where all murderers go."

Hugh Morgan about this time was convicted of robbery at Red Mountain Bar, on the Tuolumne. He was given twenty-five lashes and driven from the place.

At the September election of 1851 a crowd of voters was gathered in front of a saloon at Granite Basin, smoking, drinking, and entertaining each other with rude jests and noisy laughter. Somewhat apart stood Aaron Bradbury, a hard-visaged, cross-grained man, but withal honest and industrious. He had gained the ill-will of his fellows by his unsocial and morose manner rather than by any real wrong-doing. As the crowd became excited by liquor, their conversation turned on Bradbury, and one story followed another, accusing him of falsehood and of improper intimacy with a married woman. Hearing his name used, he drew near and demanded an explanation; angry words ensued. With or without sufficient cause he drew a pocket-knife and stabbed one or two men, each of whom was more powerful than himself, inflicting several wounds, but none of a serious nature. Maddened at the sight of blood, the crowd rushed upon him, threw him down, and kicked and pounded him until the most brutal nature should have been satisfied. But this was not enough. Binding him to a chair, they hurried him off to hang him to the nearest tree. Protestations were of no avail; no extenuating circumstance would be considered; nor would they listen to his prayer for trial by jury. Reaching a suitable place, they released him from the chair and stood him beneath an oak-tree. Then tying round his neck one end of a rope and throwing the other end over a limb, twenty strong men took hold with a will and awaited the signal. At that critical moment three men stepped forward. One drew a knife and severed the rope, while the others faced the crowd. There was a quiet but bloody resolution in their eyes, and the half-drunken hangmen saw it and wavered. For six hours they faced each other, those of the law and those of lawless passion, until with cooler brain and restored reason the crowd gradually dispersed, leaving the law to dispose of the case in a less summary manner.

During an all-night debauch at Weaverville two men of Sydney, Hardgraves and Seymour, walked hither and thither, they knew not where. In the morning the former missed a can of gold-dust worth a thousand dollars, and accused his comrade of the theft. Accordingly Seymour was taken to the historic tree, and was there twice elevated and twice lowered. Urged to confess guilt, he continued to declare his innocence. He was finally permitted to escape, and shortly after Hardgraves found his gold-dust in the chaparral where he himself had dropped it.

On board the steamboat on the way from Marysville to San Francisco in October was a passenger, a man of Sydney named Griffin, who stole a Colt revolver, which after diligent search was found upon his person. The bluster of indignant bravado which Mr Griffin raised on being charged with the irregularity did not save him. On the spot a court was organized by the passengers, before which the man was tried and found guilty. There happened to be on board an unfortunate Illinoisian, sick and penniless, who was on his way to the hospital. It was ordered by the court that the thief pay to the sick man the sum of one hundred dollars, which the man of Sydney was only too glad to do, trusting his liberty to see the sum restored from the first unguarded dust upon which he could lay his hands.

One of those wild spasms of divine right so frequent in frontier communities occurred at Mokelumne Hill on the 15th of October. The constable of the town, Donahue, for fighting arrested one Joseph Alexander, an Israelitish Pole twenty-five years of age, a man of considerable talent, well educated, and specially adept in speaking modern languages. On their way to prison the Pole was somewhat saucy, and the constable, a good-hearted, well meaning, but passionate man, struck the prisoner with a revolver, which exploded, but without injury. Another shot, accidental or otherwise, took effect in the prisoner's side,

which caused death amidst the most excruciating pain. The people were profoundly moved. Donahue was taken and tried by a jury of twelve, with two citizens as presiding judges, with counsel on either side. It was during the trial that the Pole died, which event terminated the deliberations of the tribunal. Throughout the streets of the town a gong was sounded, summoning the inhabitants to assemble and determine what should be done with the constable. Many were for immediate execution, but the majority favoring more lenient measures, he was delivered to the authorities. Such action, often repeated, on the part of the people showed at all events the presence of an earnest desire to do right.

At Mud Springs, near Placerville, on the 8th of November an old man named Clark was attacked in his tent by Abner J. Dixon, a Wisconsin youth nineteen years of age, who cut him fearfully with a hatchet, robbed him of two hundred dollars, and left him for dead. By the print of his footsteps in the damp earth the felon was traced to his own tent, near which the old man's money was found buried. Dixon, who though young in years was old in sin, was promptly arrested, tried, and executed by the people, protesting his innocence to the last.

The miners about Sonora were greatly troubled with robbers and cutthroats during the autumn of this year. On the night of the 14th of November there was a regular butchery at Turnersville. The brothers Steward were badly cut and shot. One Boose was killed on the spot, and another, Olin, died next day. One of the gang, Domingo, was caught and hanged by the people immediately, previous to which he had confessed his guilt and exposed his comrades. Others of the band, which was composed of both Mexicans and Americans, were afterward captured and executed. This was the hot-bed of assassination and robbery, and for a time the law did not pretend to interfere with popular executions. It was

simply a war between those who lived by honest work and those who followed robbery as a profession. A party of four Mexicans out on the war-path in this vicinity committed thirty murders within two weeks.

So much for 1851; now turn to 1852. For horse-stealing at El Monte and thereabout, a man calling himself Smith was arrested on the 2d of February. After two or three days' imprisonment in Los Angeles he was taken from jail by the people, who gave him a trial and adjudged him seventy-eight lashes. A singular popular freak attended the execution of the sentence. An Indian was appointed to inflict the punishment, when Smith objected and asked that a white man should be substituted. Ten dollars was offered to any one who would perform the repulsive task. The offer was accepted by an American, whose dress betokened destitute circumstances. No sooner was the work accomplished than he was seized by the crowd, placed in a blanket, and tossed violently in the air. This was repeated several times, when the poor fellow was made to fall so heavily on his head and shoulders as to severely injure him and render him insensible. The reason alleged for their brutal conduct was that any American who would offer to whip one of his own countrymen for money deserved such treatment.

It was unsafe at one time for even a native American to steal in California; but men of dusky skin indulging in such an offence were almost sure to find, at some historic tree, Apollo's best gift—death. In the autumn of 1851, at Newton, a black man was found guilty of theft and whipped; in the spring of 1852 he was found guilty of theft and hanged.

Two young men, supposed to be Americans, rode into Murphy Diggings the 8th of February on horses that the people suspected were stolen, and it was determined to watch them as dangerous characters. On that night three houses were entered and

robbed of five hundred dollars in money. The next morning the suspected men attempted to leave town in different directions, but were arrested and brought before Mr Vanderslice, who acted as judge for the people's court. The guilt of the young men was easily proved, as the money was found in their possession. They received a trial and were sentenced to death. Neither would reveal his name or native place, and they were hanged without making any confession. One of them, on being questioned a moment previous to his execution, said with an oath that he would not confess to anything. "But," he added, "understand that I am one of the brothers; you can put that in your pipe and smoke it." It was afterward ascertained that they were not Americans, but criminals of the worst kind from Sydney.

A poor teamster came off the plains with a single yoke of oxen, which he sold for one hundred dollars in gold-dust to a person who left the place immediately after the purchase. The same day a purse containing one hundred dollars in the same kind of dust was stolen, and the poor man from the plains was suspected, arrested, tried, convicted, and deprived of his purse, with thirty lashes on his bare back. Burning under the wrong, no sooner was the whipping over than, seizing a pistol, the teamster placed it to the head of the man who first accused him: "You are the man who stole that money!" he exclaimed; "I know it. Now confess, and quickly, or as sure as there is a God in heaven I'll scatter your brains as far as powder will blow them!" The threatened man saw murder in the eyes of his accuser; there was no mistaking it. In truth he was guilty; so he drew from his pocket the stolen dust, whereupon the enraged crowd seized and hanged him to the nearest tree, and raising on the spot a contribution of seventeen hundred dollars presented it to the beaten teamster.

Some distance south of Stockton, on the San Joaquin River, a negress set fire to a hospital out of

spite. As she was known to have done it, the proprietor and his friends were about to hang her on the spot, yet when she fell on her knees and confessed her crime the sentence was changed to whipping; but the whip being placed in the hands of a too vigorous American, she died under its blows.

The miners of Big Cañon, who missed several articles from time to time in March, having discovered some of the stolen property in the possession of a certain person, arrested and tried the culprit, and sentenced him to receive twenty-six lashes on the bare back. The punishment being duly administered, a committee was then appointed to show him the way out of camp. Procuring a Chinese gong, they paraded him up and down the street, calling upon all the people to come and look at him, that they might know him forever after; then they conducted him two miles on his way, and parted from him with the injunction that should he ever show himself again in that neighborhood he might expect to be hanged.

Marysville was the scene of great excitement from nine o'clock on the morning of March 20th till three in the afternoon. The streets were thronged. A thief named Tanner, under arrest for grand larceny, attempted to forfeit his bail and escape with the plunder which he had secreted. He was captured, with the proof of his guilt upon him. A people's court tried and condemned him, and demanded his life. The mayor endeavored in vain to restore quiet. At last he produced some little effect by bringing out the distressed wife and children of the condemned. Then threatening to use force of arms, the authorities took the prisoner and placed him in a building, before which Recorder Watkins stood with a cocked pistol, intimidating the near approach of any. The building was surrounded by the infuriated crowd, but Tanner, securely ironed in jail, was now beyond their reach, and the multitude were constrained to disperse.

A crowd of miners, numbering two or three hun-

dred, collected round the jail in Coloma on the 15th of April and demanded the surrender of two prisoners, one Henry George from Sydney, and the other William Miller, a negro, who were indicted for stealing over seven thousand dollars. The sheriff was absent impanelling a jury, and the jailer was forced to comply with the demand. As soon as they had obtained possession of the men the crowd hurried them off to an adjacent tree, and without ceremony hanged first the negro and then the white man. Then returning to the jail they demanded Dougherty, another prisoner whose trial was in progress at the time; indeed the jury were then deliberating over a verdict. The miners sent word to the jury that they would be allowed fifteen minutes to bring in a verdict, as they should hang Dougherty at the expiration of that time. The jury soon pronounced a verdict of guilty, and the prisoner was sentenced to ten years in the state-prison. When the sentence was announced the crowd made a rush for Dougherty, but were quieted by Thomas Robertson, whose eloquent appeal induced them to disperse.

White Oak Springs was the theatre of one of those murder and lynching scenes which have been enacted in almost every town in California. James Hughlett made frequent and abusive attacks upon the character of another boarder at the hotel, Abner Spencer by name, who on the 29th of April resented one of Hughlett's remarks, collaring him and throwing him to the floor; while down, Hughlett drew a knife and stabbed Spencer so severely that he died. Hughlett was arrested, tried by the people, hurried to a tree, and hanged.

Two Frenchmen while asleep were murdered near Jackson, Calaveras County, in May. A Mexican named Cheverino was suspected as one of the murderers and arrested a few weeks afterward. A preliminary examination was held before Justice McDowell, and the man was committed for trial. The

people, impatient of delay and satisfied of his guilt, took him from the authorities, led him to a tree in front of the Astor House, put a rope around his neck, and attempted to hang him. In their hasty preparations they had neglected to tie his hands. Catching the rope, he loosened it about his throat and they were obliged to lower him to the ground. He then took advantage of the opportunity to retract his protestation of innocence and to make full confession of his guilt. Then he was hanged in peace.

Four Indians attacked a man who was travelling from Downieville to Marysville the 30th of May; they shot him full of arrows and then clubbed him to death. Next day the miners made a formal demand on the chief, threatening to annihilate the ranchería if the murderers were not delivered up. Four warriors were given the white men, who found guilty and hanged three of them, thus inaugurating a new system for the adjustment of Indian difficulties in these parts; for in less than a fortnight thereafter, that is to say on the 12th of June, when one Comstock was killed with arrows between Marysville and Bridgeport, the chief, Wemah, was told that he must produce the murderers or be murdered himself. Choosing the former alternative, he delivered two of the tribe to the people of French Corral, who applied the hempen remedy incontinently.

James Edmondson, commonly known as Jim Ugly, was executed by the people at Yankee Jim in 1852. Here as elsewhere during the grand carnival, fights of every description in which life was freely risked and often lost were of frequent occurrence. Now and then, when a killing occurred of a nature more exasperating than usual, or if the slayer was a desperate character, a noted desperado, or a gambler, or if the man killed was respected or popular, there would be a trial and an execution; but if the combatants were equally matched, and the fight fair, but little notice was usually taken of deadly results.

Early in June Mr Hoofins, a valuable citizen of Nicolaus, was murdered by a negro named Rideout. The man was arrested and after a trial was hanged by the people.

John Jackson, from the upper part of Plumas River, went on the evening of June 10th to the house of one Baker and his wife, a Swiss couple in Yuba City, and asked for food and a bed, which were given him. Next morning Baker went to Hock Farm, leaving Jackson in the house. Baker returned at noon, and his wife was missing; he was met by Jackson, who tried to shoot him, but the pistol missed fire. Baker went after his pistol, but that was gone. Meanwhile Jackson took a horse and rode off. Baker took another and followed, having first alarmed the neighborhood. Jackson was soon caught, and on him were found thirty dollars and Baker's pistol. The body of the woman was discovered, with marks on the throat and three bullet-holes under the left breast. A law jury sat upon the case; but without waiting for its verdict, the enraged people threw a lasso round Jackson's neck and hanged him to the nearest tree.

One night near Weaver Creek the apartment of a Mexican gambler named Lopez was entered by five burglars. One of them kept a pistol at Lopez' head while the others rifled his trunk of its contents. The robbers were arrested in the act. A jury chosen from among the citizens sentenced them to thirty-nine lashes each, which were duly administered.

A Mexican boy named Cruz Flores was also tried by the people at Jackson on the 11th of June as a confederate of Cheverino. Guilt was not proved to their satisfaction, so they turned him over to the civil authorities. Several hundred Frenchmen were present, armed with double-barrelled shot-guns and pistols, and when the decision of the people's jury was announced, the countrymen of the murdered man made a rush for the prisoner, demanding his life. During the struggle the boy's arm was broken. After a half

hour's contest the infuriated Frenchmen succeeded in capturing the boy, and dragging him to a tree they hanged him, one of them holding to his legs until life was extinct.

A man named Williams was discovered taking money from the clothing of a man who was asleep at the Placer Hotel, Placerville, at daybreak the 15th of June. The boarders administered the punishment, banishing him from town after having given him kicks, blows, and twenty-five lashes on the bare back. This was the third case of the kind at Placerville that spring.

A man named Dunn was arrested upon suspicion of having stolen twenty-five thousand dollars from Diggs and Anderson at Cache Creek on the 17th of June. He was taken to a tree and strangled a little to extort a confession; a second and a third trial of the same kind were made, the last nearly proving fatal. As he persisted in protesting his innocence and total ignorance of the theft the torture was discontinued and the prisoner liberated.

A Frenchman named Raymond deliberately murdered a Chinaman at Big Bar on the Cosumnes in June. He was tried by a jury of twelve men and was immediately hanged by the people. Few instances of this kind are on record where a white man promptly receives his deserts for the murder or maltreatment of a Chinaman or a native, and it speaks volumes for the fair dealings of the miners of that locality.

The 4th of July this year came on Sunday, and was celebrated at Eureka by chastising a fellow named Francis Boyd, who had stolen a quantity of barley. He was given a dozen lashes on the bare back, and warned to roll up his blankets and leave the diggings within thirty minutes.

The town of Columbia has its Broadway, as has every mining-camp by whatever name called; and gathered round a tree standing at the upper end of

this busy street on the 7th of July might have been seen an excited crowd with some object in their midst which commanded their violent attention. It was an old man, prostrate beneath the tree, half strangled by the rope which encircled his neck as it hung loosely from a limb. Every now and then his tormentors would seize the rope and pull upon it until the old man was lifted a few feet from the ground, when they would let him down again. Why was this? The miners were by no means a cruel people; children and old age, next to women, commanded their tender sympathy. This seemed harsh treatment. Assuredly it went against their feelings; but they felt that crime must be put down at any cost, and suspicion pointed to the old man as guilty of crime. It appears that one Yetes, on his way from his claim to the town, dropped his purse, containing twelve hundred dollars in gold-dust. Near the spot where he thought he must have dropped it the prisoner was seen to pick up something. On being questioned he stoutly denied any knowledge of it; nevertheless the magistrate committed him for trial. Speculation then began to spread about the town as to the probable guilt of the accused, until curiosity getting the better of discretion they proceeded to the prison and borrowed the prisoner from the law until they should satisfy themselves. For a time, between the short intervals of his suspension, the old man continued to deny his guilt; finally, fearing lest one of the upliftings should be a trifle too long, and being generally uncomfortable under the treatment, he confessed, discovered to them the money, and was banished.

Mob law in its reckless course afforded opportunity for the display of personal vindictiveness, and even for shielding the guilty, the accuser sometimes himself being the criminal. Such an instance occurred seven miles from Mariposa in August, when Moore and Company's store on Sherlock Creek was entered and robbed of nine hundred dollars. Suspicion fell on

an old man named Johnson, who was at once arrested by a mob instigated by a young man named Carrico. Johnson was taken to a tree some little distance away, and being suspended, was strangled until life was nearly extinct, while Carrico and others demanded that he should tell where he had secreted the money. The unfortunate man denied any knowledge of robbery; though cruelly lashed, he would not retract the statement. Carrico then proposed that they should lay him on a bed of hot embers, and at the same time use other tortures too cruel to mention, but the crowd refused to indulge him further and released the prisoner.

A few days after, Carrico left the place under circumstances that aroused the suspicions of the miners. They pursued him, and upon his arrest discovered on his person the gold for the theft of which poor Johnson had been tortured. Carrico received a trial before a legal court and was sentenced to five years in the state-prison: a less punishment than his villainy seemed to deserve. If the same mob that had so unfeelingly persecuted the old man had turned its vengeance upon this callous wretch, applying to him the treatment he had himself proposed for another, the community would have sympathized with them, and would have upheld their proceedings.

Christopher Ferril, living in a cabin on Murphy Gulch, Calaveras County, was discovered on the 8th of January 1853 to have considerable stolen property in his possession. He was given twenty-five lashes on the bare back and driven from the place.

David Spence's rancho, on the Salinas River, was visited by some Mexican horse-thieves infesting that section. Pursued by the mayordomo and others, two Mexicans were caught hiding under the bushes between Gilroy and Pájaro. They were bound and committed to the Monterey jail for trial; but the inhabitants of San Juan preferred to see justice awarded

at once to the scoundrels whose depredations had cost them so dear, and taking them from the officers they were hanged on a gallows the 8th of February.

Three Chinamen went into a store at Mud Springs on the 11th of February for the ostensible purpose of making some purchases. While the proprietor was showing some boots to one of them in another room, the others took the money-drawer and left the store. The merchant soon discovered his loss, and had little difficulty in tracing the Chinamen to a tent, where they were found dividing the nine hundred dollars which they had stolen. They were at once arrested, taken to the main street of the town, and at the demand of the excited assemblage were hanged.

Near Shasta, at a place called Whiskey Creek, a barkeeper in April became exasperated at some insult from a fellow-citizen and shot him. He was seized at once by the people and hanged within a few hours.

In April two Mexican horse-thieves were arrested near Martinez and hanged by a mob.

During the spring of 1853 there was a gang of Chilean desperadoes encamped at a creek two miles below the town of Jackson. They pretended to work in the mines occasionally, but in reality depended on robbery for a livelihood. A company of Chinese worked near the Chilean encampment. On the 27th of July the Chileans made a raid upon the Chinese, killing one man and stealing several hundred dollars. One of the Chileans was captured by the Chinese, who sent to town for assistance. Fifty armed men came to the rescue; when they arrived they found the prisoner being tortured by the infuriated Chinese. The Chilean was taken to town and kept in custody until morning, when he was executed in the presence of a thousand people. Vengeance extraordinary was directed against the Mexicans, Chileans, and Indians. A complete catalogue of crime with the sharp, swift vengeance of self-appointed justice, would fill a volume. In the southern mines a week's record of

atrocities coming under the observation of one man consisted of three Mexicans hanged on suspicion of assassination; seven Mexicans shot in a gambling-saloon on a charge of cheating at cards; two Mexicans hanged for robbing a claim; one man hanged for murder, and a ranchería of natives massacred for killing and eating a stray horse—pretty lively butchery for one locality.

A quarrel occurred at American Flat on the 23d of May between a Mexican and one Jeffrey Lewis over a game of cards. The men were separated after an exchange of blows. Next day the Mexican approached Lewis, and without a word shot him dead and immediately escaped. A party pursued him, but failing in their attempt to capture him, arrested two of his evil associates. One of them made his escape, but the other was tried by mob law, found guilty enough for all practical purposes, and hanged.

A Chilean vaquero at Mokelumne Hill was suspected in June of having stolen stock from Joseph Kirk and his brother, ranchers in San Joaquin, and was seized and punished by them. With the assistance of McKee Raney the Chilean was subjected to a severe beating, and his bare back, fearfully lacerated, was exposed to the sun for several hours. He was at last liberated, when he returned to his home, where his story excited the sympathy and indignation of his countrymen. They raised the sum of one hundred and fifty ounces of gold-dust to defray the expense of a prosecution, as they wished to see what sort of justice the courts administered. In the mean time one of the Kirks appeared on the street in Mokelumne Hill, and was recognized by a mounted Chilean, who quickly threw a lariat over his head. He would have dragged him to his death but for the interference of the vaquero who had been so brutally treated by him. The vaquero insisted that his enemy should have a fair trial before the courts. Thereupon

Kirk was liberated, and though pursued, succeeded in making his escape.

A drunken fellow named Vivian assaulted Marto, a Spaniard, at Condemned Bar on the 4th of July, when Marto in self-defence stabbed Vivian. The mob spirit was at once aroused, and though the wounded man was still living, the people determined that the Spaniard should be hanged. Marto, acting upon the advice of Judge Peterson, who thought the deed justifiable, attempted escape by plunging into the river. Before he was half across he was shot at and killed. A by-stander pronounced the proceeding an outrage; he had no sooner expressed the opinion than he was killed by the mob. In their unreasoning blood-thirstiness they talked of taking the life even of Judge Peterson.

But very different were some of their executions where calmness, order, and philosophic coolness characterized all their proceedings. A gentleman at the diggings learned that a man had been arrested for robbery in a neighboring camp and was to be executed. It created no excitement, but as he was curious to see the affair he walked over to the locality. Unacquainted with any one, he spoke to a man standing apart from the others.

"Will you tell me which is the man to be hanged?"

"I believe it's I, sir," was the reply, without change of countenance. Half an hour afterward he was hanging from a tree, and the community quietly dispersed.

John Clare and Andrew Cracovitch, fishermen, had a serious quarrel about their fish-tackle on the 16th of August 1853. Clare angrily walked away, and procuring a pistol concealed himself behind some lumber, where he lay in wait for Cracovitch. Soon after Cracovitch passed, and Clare fired, killing him instantly. He was arrested and placed in jail, where he boldly acknowledged the assassination. On the following day the mob dragged him from his cell, and

taking him to the place where he had shot Cracovitch, hanged him there.

Spanish Charley, a bull-fighter, convicted by a people's jury of murder at Gibsonville in August, when brought forth for execution, though he denied that he was guilty, manifested not the slighest emotion. Binding the handkerchief over his eyes with his own hands, when all was ready he threw himself from the platform. In this trial and execution the people of Gibsonville were entitled to praise for one thing: from daylight until after the execution every store in the place refused to sell liquor, and the consequence was that of the thousand men present but two were intoxicated, and they were in that condition before coming upon the ground.

During the month of October two Irishmen made a complaint against two Frenchmen, whom they accused of having stolen fifteen hundred dollars from them. The Frenchmen were industrious men of good character, and were not generally believed guilty. However they were arrested, and were being taken for trial to Sonora by the constable when they were met by a mob of loafers and gamblers that the Irishmen had collected, and upon their demand the constable was forced to relinquish his prisoners. The mob then proceeded to a large tree, where they suspended the Frenchmen so that their feet just touched the ground, hoping to make them confess. Other Frenchmen stood by and urged their countrymen to admit their guilt, but only received their reiterated assertions of innocence. The prisoners were at last liberated, but not until their friends had promised to be responsible for the fifteen hundred dollars in case the men were found guilty after a fair trial. It was thought possible that the Irishmen's story of the robbery was without foundation, and that this method was used in the hopes of extorting money from the Frenchmen.

During this same month a Frenchman who appeared not entirely in his right mind, at or near Yreka

committed homicide. He was arrested and hanged by a party from Greenhorn Creek, under circumstances too disgusting to be described.

Some Spanish desperadoes while in Alvarado on the 23d of November fired into a hotel; then proceeding to the Catholic church they broke all the windows. After this mischief they started for the mountains, and happening to meet an American, Frank Devol, fired at him, two shots passing through his coat. Devol with some friends pursued the Spaniards, who made a desperate effort to elude them. The Americans finally succeeded in catching one of them and brought him back to Alvarado, where a preliminary trial was held. At midnight on the 15th the citizens proceeded to the jail, overpowered the guard, and taking the prisoner to Alameda bridge, hanged him.

On a November Sunday in a saloon at Columbia an Italian invited an American to drink. The latter refused; the Italian would force him, but in return received a severe blow in the face. This so infuriated the Italian that he fell upon the American with a knife and killed him. The murderer was immediately arrested by a constable, but the excited miners wrested the prisoner from the officer of the law, dragged him by the hair through the streets to a tree situated on a hill, and hanged him. The limb breaking, however, before life was extinct, and the passions of the people having cooled meanwhile, they thought better of their course, formed themselves into a jury, tried and convicted the prisoner, and then turned him over for punishment to the civil authorities.

There were good Chinamen and bad Chinamen in those days—more particularly bad Chinamen. John's favorite rascality was the robbing of sluice-boxes. Sometimes the miners did not clean up their washings for several days or weeks at a time, but left the gold with the débris at the bottom of the sluices, and these the Chinamen used to like to clean up themselves at night, when no one saw them. Unfortu-

nately for them, six of their number were caught at this pastime one Saturday night on French Hill by those who had long been watching for them. Two of them were brought to the post and given fifty lashes each, and their queues taken from them; the others slipped from the fingers of the avengers. This taught both the good and bad Chinamen a lesson. The latter were induced to be more circumspect in their stealing, or more especially in their escaping, while the former were not backward thereafter in tying to a tree and whipping any of their own number whenever occasion seemed in their eyes to demand it.

Sunday was an uneasy day of rest for the miner, whose life was divided, not unequally in many cases, between work and wickedness. Though not a working-day, its sacredness had been left at home, and it was now made the scape-goat of all the other days. It was then that miners washed, baked, and mended; on Sunday those who dug at distant camps came to town for their week's supply. Their drudgery done, all hands turned their attention to deviltry; some even neglected distasteful duties that they might the more wholly consecrate the day to Satan. It seemed almost a matter of conscience with some to drink themselves insane before nightfall, and supplement the day by an evening of tranquil inebriety.

Peter Nicholas, an Austrian working at Columbia in 1853, was usually ready for his rounds before noon, so that by three or four o'clock he was quite hilarious. Such was his condition when, in the afternoon of November 13th, with two companions he entered the store of C. H. Alverding, at the corner of Main and Jackson streets, and opened banter with one John Parote, a miner from Pine Log, who was there trading.

"I say, mister, what's your name?" began Pete. Parote deigned no reply.

"Well, then, where do you live?" Still no reply.

"Do you know where you came from? What country do you belong to?" continued Pete.

"I belong to all countries," replied Parote; "I am a Californian."

"That won't do," persisted Pete; "I want to know what countryman you are?"

"All right—I'm an Irishman," said Parote; "does that suit you?"

"No, it don't!" exclaimed Pete, seizing the other by the collar.

"Let me go!" demanded Parote, endeavoring to release himself.

"No, I won't!" cried Pete.

Thereupon Parote struck his tormentor in the face, struck him twice, and struggling to release himself, fell backward over a bag of sugar, dragging his assailant after him.

"Hold him!" cried one of the drunken man's companions, springing forward. "Pete has a knife!"

The weapon was secured, but not until the Austrian had made three passes at Parote, who at the last thrust cried, "I am struck!" and fell back prostrate.

The Austrian was arrested, taken before Justice Cardey for examination, and committed for trial. Columbia having then no jail, the prisoner's leg was padlocked to a staple in the floor of a room adjoining the justice's office, and a guard set over him.

Meanwhile information of the affair spread, and soon miners were seen coming in from every direction to determine what should be done. Particularly were those from Pine Log interested, for there the wounded man had many friends in no wise disposed to regard lightly the stabbing of a comrade at Columbia. As day changed into night so darkened their mood; and by next morning the matter was arranged. After breakfast, quietly and openly a company of miners, the majority of whom were Pine Logites, proceeded to the justice's office, pried with a crow-bar the staple from the floor, and despite the expostulations of the

guard took Nicholas to the gulch south-west of the Broadway Hotel and there made ready to hang him to a tree. The rope was round his neck and over the limb, but before the word was given, the constable and an assistant were up the tree trying to cut the rope, when the limb breaking, down came all together. It was an unlucky tree, and unfit for hanging purposes, now that the only good limb on it was broken; so they cursed it, cursed the constable, and then went over to the Gold Hill slope and chose a better tree.

By this time James W. Coffroth, a budding lawtender, was on the ground: Coffroth the cunning. He too wanted the man hanged, he said; it was the duty of all good men to hang bad men. But for the everlasting honor of our glorious republic, let all things be done decently and in order. Parote was now dead. As a matter of course Nicholas would be hanged; there was not a shadow of possibility of his escape. But for the credit of Columbia give the man a trial; force not Pine Log to hide her head among the nations for having hanged an Austrian upon whose cause no miner sat in judgment.

Talking thus against time, as was his purpose, Coffroth won. Presently the sheriff appeared. Solomon was his name, and a very good name, and a good sheriff. Judging from outward expression and carriage, he too would delight in seeing the Austrian hanged. Solomon's vocation was hanging; for such he had been created. But a close observer might have detected about Solomon's mouth that which belied his careless demeanor; a listener to the low word spoken here and there in the ears of the more intelligent and stalwart of the crowd would surely have detected it. Further, he would have seen the men so spoken to one by one slowly edging their way toward the prisoner, and so far as possible unnoticed form a firm belt of determination round him. Then opened Solomon his mouth; wide he opened it, for it was large, and by no means handsome.

"Gentlemen," he said, without offering to lay hand upon the prisoner, "you will excuse me, but this man is going to the Sonora jail, there to await his trial by law. I am going to take him there. You are all good men, acting from good motives; but believe me, my friends, it is best as I have said." Solomon's friends did not agree with him, however, and making a rush upon the prisoner, they sought to rescue him from the law. But the belt of brawny men they found impassable. They saw themselves outwitted; such was Solomon; and availing themselves of the privilege of the beaten to swear, they swore, and Nicholas slept that night in jail. But for Coffroth and Solomon, hades would surely have been his resting-place.

The trial came on in due form the 25th of the following February, and the intelligent jury found Peter Nicholas guilty of murder and recommended him to the mercy of the court. They did not think he should be hanged, yet he murdered; they could not deny he murdered; but it was in drunken fun, and they thought imprisonment for life enough. Not knowing that with the judge, who has no discretion, murder means hanging, they make this mess of it. Justice acknowledged her obligation and the jury was discharged; but as is often the case, justice could have weighed out this man's due far more equitably without the assistance of twelve ignorant and stupid men. The 7th of April 1854 was fixed for the execution of Peter Nicholas.

At this time the great question in political circles was the location of the state capital. San José, Vallejo, Monterey, and Sacramento each begged the honor and profit of it, and to the legislature which convened at Benicia the first Monday in January 1854 numerous long petitions accompanied tedious communications setting forth the relative advantages of the several places, and what their citizens would give and do to settle the law-makers among them. The windy debates, and indeed everything connected

with the subject became at length so tiresome that the miners, with their usual keen appreciation of the ludicrous, turned it into burlesque by drawing up a petition making Pine Log the state capital. Entering into the spirit of the thing, everybody signed it, particularly the Pine Logites, though it never was forwarded to the legislature.

We have seen that John Bigler often forgave the freest where the sin was greatest; indeed his reputation for pardoning was now notorious. He was specially forgiving of the sins of his followers. Now Peter Nicliolas, the Austrian, when he killed John Parote, did not know there was such a being in existence as John Bigler, nor did he care. He had that which was more powerful than governors, gold, the master of John Bigler, the governor, now the faithful servant of Peter Nicholas, the murderer. It was not much; Pete had saved a little money at work, but all that a man hath will he give for his life. Pete's money bought him a good lawyer, an exceedingly good lawyer, an able man of easy conscience, not overscrupulous as to the tricks of the trade, and very expert in pointing the weapons of law against its own breast. In all seriousness, however, be it said to his praise that he proved a stanch adherent to his cause. He could not clear Pete by law; even the dolts upon the jury bench must say guilty when they meant innocent; so he would try stratagem.

Temptingly upon a merchant's counter one day this lawyer saw the list of signatures to the Pine Log capital petition. All hope to save his client's life by other than desperate means had long since abandoned him. Slipping the petition into his breast-pocket, he retired to his room, tore from the signatures, covering several pages of legal paper, the heading, wrote a prayer to the executive begging commutation of the death sentence of Peter Nicholas, joined carefully to it the list of signatures, many of which were written by the same hands that helped adjust the rope around

the Austrian's neck, and forwarded it to John Bigler, governor. It was enough. Ten years of penitentiary discipline was made the substitute of hempen halter. And this, by one of those stampedes of state prisoners frequent in early San Quentin life, was reduced to four years, and Peter Nicholas, the Austrian, was again a free man.

On the 17th of February 1854 some members of a band of Mexican and Chilean robbers entered a cabin in Mariposa County, where they murdered and robbed an old man named Nathan Pratt, of Maine. One of the band was immediately captured and hurried to a tree in front of Pratt's cabin, where he was hanged. Another was soon arrested, but was protected by his countrymen, who collected from all parts of the country and demanded that he should have a legal trial. Upon this resistance the Americans banded in large force, seized the prisoner, and hanged him beside his comrade.

During the latter part of March a horse-thief, a Swiss named Schwartz, was captured and hanged by a mob at Jackson. The tree upon which he was executed had been used seven times for a like purpose. After the execution of Schwartz it was suggested that an image of Judge Lynch should be carved from the tree. A Mexican was hanged in July for horse-stealing. Another Mexican who had stabbed his brother-in-law was hanged by the people, his request that he might be shot, although backed by the entreaties of his many friends, having been refused. Another and another punishment of similar nature occurred at about the same time and place.

Sweet Sonoma, whose valley is too lovely to be so disfigured, saw the horse-thief Richie hanging from the tree where before trial the mob had elevated him the 30th of May. Richie had been arrested in Shasta City for stealing mules, and was sent to Sonoma City for trial under charge of a deputy sheriff and his

two aids. The party stopped at the house of the officer over night; in the morning they were aroused by an imperative demand for Richie. Some fifteen or twenty men stood outside the house, and the command was perforce complied with. Taking the prisoner, they ordered the guard to remain where they were until afternoon. Proceeding to an old adobe house on Santa Rosa Creek, they held a long conference as to their disposition of Richie; hanging at once or trial by law were in turn considered. Acting upon their final decision, they brought the prisoner back unharmed to the guard, and told them to proceed with him to Sonoma for trial. The prisoner urged a delay until night before taking the journey, so that it was ten o'clock before they started. Their apprehensions of trouble seemed groundless, for they were now within four miles of the town without encountering any opposition, when suddenly there appeared before them like an apparition, veiled in the thick fog, about forty men, who seized Richie and ordered the guard to retire. Possibly they were Richie's friends come to release him from the approaching trial; in the mist that obscured everything it was impossible to tell. At daybreak the next morning the guard continued their way to Sonoma; but they had not proceeded far when they saw the body of Richie hanging from the limb of a white-oak. Although considerable excitement prevailed for a while, it subsided in the belief that a just punishment had befallen a horse-thief.

A party of men from Contra Costa, with George Carpenter as their leader, searching for stolen cattle, found some of them on the night of August 22d at a slaughter corral owned by Amedée Canu, a Frenchman, and Pierre Archambault, a Belgian. Hides bearing the owner's brand were also found concealed about the place. The two men were arrested and taken to San Antonio; the vote of the assembled crowd was asked as to what disposition should be made of them. It was determined that they should be

given up to the authorities, which was done. During the night the ranchmen for miles around gathered at San Antonio and in the early morning forced the prison, and seizing the men, hanged them from trees in the rear of the Mansion House.

At Iowa Hill William Johnson, a noted desperado, on the 24th of December stabbed one Montgomery under circumstances peculiarly aggravating. No hopes were entertained of recovery. The assassin was seized by the sheriff, but was taken from his hands by the people, tried by a jury of twelve, and the next day was hanged, two thousand persons attending. Afterward Montgomery recovered. On the 5th of January five of the participants in the affair were arrested by the sheriff, who came down upon them with a *posse* of one hundred and fifty men, whereupon the bells were rung, and the people rallied, swearing that the accused should not be taken to trial. Thinking better of it, and having, as they thought, nothing to fear, seven others of the citizens who had assisted at the trial and execution came forward and voluntarily gave themselves up in order that they might share the penalty, if any, with their friends. They were held to bail in the sum of five thousand dollars each, but were subsequently discharged.

About the same time at Volcano, in Amador County, one Macy stabbed an old man. In less than half an hour after the commission of the crime he was executed by the mob.

Heslep, acting treasurer of Tuolumne County, was murdered on the 18th of January 1855. A man strongly suspected of having committed the deed was pursued and executed by the people within twenty-four hours. About the same time an old man of family at Jackson was killed by a young man, and in less than half an hour after the murderer was swinging from a tree without the aid of judge or jury. On the 26th two Chileans and a Mexican were hanged

by the people in Contra Costa County for cattle-stealing. It was the nationality of these thieves that cost them their lives. The slayer of a man in a fight on the Klamath was found guilty of manslaughter by a court of law. This not satisfying the people they seized and hanged the prisoner.

Three banditti were arrested on the San Joaquin in January 1855, one of whom, Salvador Valdés, confessed their connection with a band of cattle-thieves, and said that fifteen were then on their way from southern California. He offered to deliver them all to the people if they would take him to the place mentioned; but as Valdés had previously been arrested and had made his escape, his captors would not risk the consequences of such an experiment. He boasted of having taken the lives of seven men, and gave vivid descriptions of his successful depredations on many ranchos. "A regularly organized band of horse-thieves," says the Sonora *Herald*, "exists in Tuolumne County, who carry on their depredations with an astonishing degree of boldness." After a trial by the people these desperadoes were convicted and hanged at Smith and Johnson's rancho on the San Joaquin River.

A travelling Frenchman relates that on reaching Hawkins Bar he saw a Mexican tied to the trunk of a tree and surrounded by a crowd. The culprit was stripped to the waist, and a dozen men armed with bridles and stirrup-straps were whipping him by turns. His offence, they said, was the murder of a bedfellow. Though his back was covered with blood and his face was deadly pale, with characteristic stoicism the Mexican uttered no complaint, but held between his clinched teeth the end of a cigar, as if in defiance of fate. Two hours later, on entering a tavern, the Frenchman was surprised to see the same man at a table with his executioners, drinking gin and whiskey. He supposed the affair ended; but the same evening he found the Mexican hanging from the branch of an

oak. It appears that from compassion his judges had sought by the above means to deaden suffering and ease the exit.

On the 1st of February a crowd entered the jail at Oakland between three and four o'clock in the morning, and taking out two prisoners, named Sheldon and Parker, brought them to a tree near the bridge on the road leading to Clinton. There they executed Sheldon, but released Parker on account of information he gave inculpating others of the horse and cattle-stealing fraternity. Parker, however, was obliged to witness the execution of his companion.

Upon the affidavit of one William Paine four notorious horse-thieves were arrested at Turner Pass in May. They were named William Watson, William Hand, Adolphus E. Moore, and Pole Wilkerson, the two former designated respectively as Big Bill and Little Bill. Paine testified that these men called at his house and made inquiries as to the stock and money belonging to different persons in that vicinity. He had been acquainted with them for some time. They told him they had an easy way of making a living, freely exposing their method, and asked Paine to become one of them; telling him at the same time that when they had opened a secret so far to a man they would kill him if he did not join them. Upon the arrest of the men, they were taken before a people's court and the execution of two of them determined upon. They were conducted in front of the residence of the Rev. J. G. Johnson and placed on a cart under a tree, when the fickle crowd changed its mind and let the constable have them. After further meditation upon the matter, late Sunday night a small delegation took the men from jail. Watson was hanged and then shot; Hand was placed on a barrel for the purpose of hanging him, when he broke away and escaped to the authorities. The fourth prisoner, Wilkerson, effected his escape in the darkness. While in prison and under conviction of death they all made

important confessions as to the organization with which they had been connected. Watson, or Big Bill, stated that the gang consisted of three hundred men, and was completely organized under a constitution and by-laws, and that it extended from the Colorado to Marysville. Brown was captain of the band. Renewed effort was now made for the arrest of others implicated by these confessions. Brown was at last overtaken stealing cattle from the Tejon, was pursued and captured, with two of his men, and all three were hanged.

Havilah when newly settled had in it a large quarrelsome element; so that street fights and saloon brawls were of daily occurrence, and many a life was there ruthlessly destroyed without a thought of retribution. One evening during this year, at the Casino saloon, a desperado named Bill Hammond was gambling with one Fred Stewart, when a dispute arose which led to Hammond's shooting Stewart dead. The assassin left the room, and the friends of the murdered man attended to the remains. The thought of pursuing Hammond was not entertained until John, the brother of Fred Stewart, returned from Whiskey Flat, where he was at the time of the affray. He started at once with six others to overtake the murderer. In the mean time Fred Stewart's funeral took place. Among the mourners the most sincere seemed a young woman, Alice Sterling, who was a miner's daughter and the *fiancée* of Stewart. Long afterward daily she would carry flowers to his grave. Suddenly she was missing, and after unsuccessful search the conclusion was that she had died by her own hand. In John Stewart's pursuit of Hammond the desperate character of the outlaw was fully evinced. His hiding-place was discovered in the Greenhorn Mountains. The pursuing party divided and ascended the mountain on either side. As Stewart with one companion, Gore, approached Hammond's retreat, a shot from behind a tree, followed quickly by another, laid both men dead.

When the others came up and saw what had been done they abandoned pursuit. It was but a few days after this that Alice Sterling had disappeared. Three years later, Hammond was in a saloon in Pioche at a card-table, when a woman entered and unperceived by him stepped behind his chair, drew a revolver, and shot him dead. Then pointing the pistol to her own head, she fired and soon after died. The woman was Alice Sterling, and the foul murder of her lover, which with the killing of two others of their number the pusillanimous townsmen of Havilah had permitted to pass, was thus avenged.

Extra judicial associations did not always confine themselves to the punishment of crime; instances are on record where misfortune unattended by blame obtained recognition. On the 4th of March at Sonora, California, the banking office of Adams and Company, whose doors were closed in San Francisco nine days previous, was entered by a mob, the sheriff then in possession was driven out, the vault containing the treasure was broken open, and paying tellers appointed who paid it out as fast as checks were presented. After thus summarily liquidating the liabilities of this branch office, the remainder was handed back to the sheriff and the mob retired. Like attempts were made in other localities, most of which failed through the firmness of the officers of the law and the gradually increasing love of order and good behavior arising in the community.

In August six Americans were found murdered near Jackson. The Mexicans were accused; thirty-six were arrested, and some advocated the execution of all of them. Several were tried, and three hanged on one tree.

At Snelling in September some Mexicans were caught with stolen mules. One was hanged and another shot, the sheriff being blindfolded and manacled at the time that he might not interfere. While the coroner's jury, summoned by the deputy sheriff,

were holding an inquest, shots were fired into the room by Mexicans, and several wounded, one fatally. The officer was taken prisoner but afterward released.

In all the southern mines there was no lovelier town than Columbia; but during the reign of bowie-knife and pistol it was the scene of many an unlovely performance. Bright the sun and beautiful the hills; sweetly sang the waters, and sweeter still the birds; fresh the air, which every morning freshened the delver's ardent longings often faint with waiting. Ah, what a fair world this might be but for the unrestful heart of man! Give me for companions rocks, trees, and flowers; or if of blood and sinew, then beasts, and birds, and fishes; or if of species kindred to my own, then savages, sylvan men and women for whom centuries of cultivation have not provided multitudinous arts as ministers to their passions; for my soul's light give me the sun, and whatsoever more it shall please my maker to let me know, but deliver me from the coarse brutalities of civilized men.

Columbia was fair I say; not so was Martha. Nature in her happiest mood had fashioned the hills, and overspread them with loveliness; had filled the echoing cañons with sweetest melody and laid on all a heaven of palpitating light; Martha's heart was acrid, and her blood like the clear babbling stream muddied by the miners, was turbid with the flow of the soul's impurities.

Therefore Martha was no saint; neither would she have been welcomed into the sisterhood of those immaculate dames whose virtue shines brightly only when placed beside black vice. Martha kept a saloon: what that meant in a mining town in early days the reader well knows. Some call them dens, but I do not; everybody went there, and she was as respectable as the men who were glad to sit on her sofa and talk to her because she was a woman; furthermore, Martha was married; married to a man.

John Barclay was his name; and he was not a bad man, though a gambler, married to a prostitute, and finally hanged. He was not a bad man, though the woman he married brought him for a dowry what Helen brought to Troy—desolation. He was not a bad man, morally measured, as men go; I would rather have such a one my friend than many who make broad their phylacteries and sit in church pews, than many who count their worse than gambling gains by millions. He was honest and open-hearted, not mean; he gambled, and so did those for whom he dealt, the class that pretend to abhor gamblers, those who sit on one side of the table, condemning the no more guilty who occupy the opposite seats. True, the woman he married was one at whom those who had made her what she was threw stones; and he her husband was hanged, but it was for that which any manly man would have done under the circumstances, namely, for shooting one who was striking his wife. Let those whose morals cover no impurities, whose religion hides no hypocrisy, denounce the openly bad as in every particular worse than themselves; for myself I see much to excuse in the professionally wicked that I cannot pass by in the more refined rascalities of the prudish and the puritanical.

But in the tongue of current morals Martha was bad; and so was Barclay. The 10th of October 1855 they had been married less than two months. The event was celebrated while Martha was absent at an agency of hers at Chinese Camp. It was there that Barclay first met her, and their short acquaintance ripened into a sort of worm-eaten affection.

John H. Smith was a miner, not necessarily better or worse than Barclay; but the world in its moral technicality agreed, by reason of his occupation, in calling him better; though so far as the record goes, the only difference between them lay in the fact that Smith drank to drunkenness at the counter from behind which Martha served the poison, and gambled

sitting at one side of the table while Barclay sat at the other side.

On the date before mentioned Smith dropped his pick and entered Columbia on a rousing spree. While in Martha's saloon he accidentally broke a pitcher which was standing on the counter. A fistic skirmish followed the high words arising from the accident; but the male being the superior brute, Martha was getting the worst of it, when Barclay entered, drew a pistol, and shot Smith dead.

The miners were furious, as they had reason to be. Barclay had no right to kill Smith; he should be hanged for it, and the miners would do it if the law would not. Coffroth was there, and stirred their passions in a moderate speech, partly to see them simmer and partly to sugar-coat his own popularity. Coffroth was becoming very wise. Two years back he was ready to fight for the law. And he still thought the law a good thing ordinarily, but in this instance—the murdered man had been a friend of his.

Jack Heckendorn, editor of the Columbia *Clipper*, was nominated judge, and a jury of twelve appointed. The sheriff and his subordinates were easily overpowered, the jail doors were beaten in with axes and crow-bars, and the prisoner was brought forth. Barclay well knew the meaning of it all, and on reaching the jail door made a desperate effort to escape. But on him, all at once, fell fifty men amidst horrible imprecations and cries of "Hang him!" "Up with him!" "Put him through!" "Swing him up!"

Beneath the ominous beams of the Tuolumne Water Company's flume where it crosses the Gold Springs road the turbulent tribunal assembled and sat. Here a ring was formed, and the prisoner with John Oxley, who had been appointed his counsel, placed within it. There were also the judge and jury, with Coffroth as prosecuting attorney, though he would gladly have seen Barclay free. Little prosecuting the poor prisoner required, surrounded as he was by the thousand

flames of consuming vengeance blazing in the breasts of those ravenous for his blood. As well might Oxley stand beneath the high Yosemite and argue to the waters the folly of their falling.

And to Barclay, how sudden and how strange! It was like the delirium of a drunken dream. But an hour or two ago he was free and happy. The sun then shone for him; the glorious panorama spreading from where he sat, and soon to be rolled from his receding gaze, was then breath-inspired for him, attuned to the melody of his life. He had harbored no ill to the man he had killed, never before had seen him, did not even know his name. Instinctively he had raised his hand against him who had raised his hand against his wife. What demoniacal howler of them all would not have done the same? And all for a broken pitcher. Oh, most damnable!

John Ward moved that the jury be sworn, when the crowd shouted, "No humbug!" "Go ahead!" In this instance the crowd were right; what had swearing to do with it? There was not a juryman there but knew his verdict would be that of guilty; he dare not give another. Nevertheless the jury were sworn; and probably the consciences of some were eased thereby. It was the irony of the jury system and of judicial procedure, these mob tribunals, with their judge, counsel, and jury, and the verdict already before the trial. Swear in God's name, if there is any relief in it; but no wonder the crowd cry "No humbug!"

The witnesses were then called, but we will not follow them. The evidence is all before me, and is as I have stated. It was a very simple case: Smith was drunk, and Martha, angry that he should break her pitcher, applied abusive epithets, whereupon Smith seized and handled her roughly, and Barclay entering at that moment shot him. The whole affair, so says the testimony, did not occupy five minutes. Coffroth, the prosecutor, testified to the respectability of the prisoner prior to his marriage.

Meanwhile the crowd were noisy and impatient. Martha Barclay was called by the defence to testify. Then the mob began afresh, "No, no!" "Away with her!" "Off! off!" "Put her away!" "Bring a hyena to testify!" And these great American justice-lovers would not let the hated object come near the ring. When the husband shot the man that assaulted the woman, then she was not his wife, and hence anathema. When the woman wished to testify, then she was his wife, and hence anathema.

Heckendorn, the judge, then asked if there were any witnesses from Chinese Camp, Barclay's former place of residence, when the crowd yelled, "What in hell do we want with Chinese!" "Send him to hell for witnesses!" "Make a prayer and let's have him!" "Don't wait! the sheriff will be here directly!" To which last remark the judge replied with gravity, "There is no danger the sheriff will get through this crowd." The answer was, "Give him to us!" "Up with him!"

Heckendorn, fearing the crowd would become frantic, then announced that the counsel on either side would address the jury. "Cut it short!" came from the rabble. "One minute apiece!" "Quick!" "Short!"

Coffroth, for the prosecution, opened and was listened to with attention and applause, for though the prisoner was his friend the eyes of the world were upon him. Oxley, for the defence, could scarcely be heard at all. He begged them to consider what they were about to do. "Enough!" "Enough!" was the reply. He spoke of the laws, when he was interrupted with "Damn the laws!" "No, no! up with him!" "Give him to us!" This last was the most horrible cry the prisoner had ever heard. There was more of the hungry wolfishness in it, more of that insatiable thirst for human blood, than could be found in oceans of current blasphemy. The judge asked that the counsel for the defence might be heard, but in vain.

It was now dark. A large fire which had been kindled blazed near by, casting its crimson glare upon that terrible tribunal which struggled so hard to give the color of justice to their wildly insensate proceedings. It was a weird and woful spectacle.

While Coffroth was writing a letter home for Barclay, and just as the jury were about to retire, James M. Stewart, the county sheriff, rode up and in the name of the law demanded the person of John S. Barclay. He then attempted to seize him, but the mob in its fury easily caught up both Barclay and the sheriff, and carried them separate ways. In an instant Barclay was beneath the flume with the inexorable hemp about his neck. Stewart made a desperate effort to save him. Breaking from those who held him, he called upon the people to assist him in the discharge of his duty. With almost superhuman strokes he beat down the rabble between himself and Barclay, and with a knife attempted to cut the rope which held him, when he received a severe blow from a pistol upon his head, and was caught and dragged back into the crowd.

The remainder of this disgraceful tragedy I will not write, but will give it in the words of an eye-witness: "The hanging scene was one of the most terrible and brutal ever witnessed by man. The rope had been lowered from the flume above and haltered around Barclay's neck without the humane precaution of pinioning the wretch's hands and arms. A dozen men hauled away on the rope, and as the writhing body went up, a yell broke forth from the mass of men below. The imprecations were horrible, and the gesticulation brutally expressive. The mob was now frantic, murderous, mad. As the howling demons above hauled on the rope, Barclay in the intensity of his despair grasped the cord over his head with both hands and clung to it for a few moments with the tenacity of desperation. Those who were hauling attempted to shake Barclay's grip by raising the rope

and letting it fall suddenly, and one of his executioners, a man named Terry, leaned over the edge of the flume and shouted, 'Let go, you damned fool! let go!' Finally one hand weakened and fell to his side; then the other gave way, and a few convulsive quivers ran through his frame as his breath was strangled by the tightening cord. Then all was still, the body hanging motionless forty feet above the surging mass of men beneath. For an instant an awful calm fell upon the mob; they seemed to realize the full extent of their horrible work, and men spoke in whispers as they gazed upward at the shape dangling between heaven and earth. Then the reaction came; the swinging body lost its interest, and the hoarse yells broke forth once more. 'To Martha's!' 'To Martha's!' they yelled. 'Let's rip the house down!' 'Down with it!' 'Hurrah, boys!' and away went a large number of the more blood-thirsty members of the mob. Arriving at Martha's, they broke the windows only. They then proceeded to a place called Pike's, and after behaving like a pack of mad fools, shouting and dancing, performed in the same insane manner in front of what was known as the 'China Houses,' one by one the surfeited mob disappeared, and shortly after midnight all was quiet in Columbia."

The year of the Grand Tribunal opens with the apprehension of two Chileans near Coulterville in March, charged with robbing Chinamen. Tried before a magistrate, they were acquitted. The people, however, were not satisfied. Robbing Chinamen was a common thing—no very great offence as wickedness went—and if the culprits had been Americans it is probable no further notice would have been taken of the affair. But the miners never missed a chance of hanging a 'greaser.' So these two Chileans were seized again, tried by the people, and one of them hanged.

Four persons, three Mexicans and one Indian, who had been incarcerated on rather slight proof at Monterey to await their trial for murder, on the 17th of May 1856 were taken from the jail by the mob and hanged.

At Deep Creek on the night of the 23d of June Solomon Brundridge of Surprise Valley was killed by one A. J. Goff, who claimed to have committed the deed in self-defence. The wife of the murdered man was the cause of the difficulty. Goff boarded at Brundridge's, and the husband was jealous. Mrs Brundridge was a sinner. Goff told what he had done; but not finding that expression of sympathy in the eyes of his listeners which he deemed essential to his safety, he attempted to escape, whereupon he was arrested. The inquest over, the people concluded to hang Goff. Prisons were insecure, and trials expensive and uncertain. Whatever conclusion the law might arrive at, Goff was none to good to hang. So on the night of the 27th, fifty men of Surprise Valley, armed with guns, presented themselves before the house where Goff was confined and demanded the murderer. The limbs of the law bristled with bravery. Particularly Judge Bowmer felt himself called upon to lay down his life for the constitution of his country. Knowing that there was not the slightest danger of their firing on him, the judge placed his back against the door, and while a dozen open-mouthed guns regarded him threateningly, he loudly declaimed that they should make him like unto a piece of honeycomb before he yielded to their unhallowed demands. Shoving the good judge aside they entered, brought out the prisoner, and conducted him to a gate with tall posts and a cross-beam. A rope was thrown over the beam, one end of which Goff adjusted to his neck. While these preparations were going on he took occasion to remark that he was a dead-centre shot with a revolver, that he had killed more men than one, that he always said he should die with his boots on,

and that if he might kill three more men in the valley he could die happy. Then climbing the rope to the cross-beam, he jumped off, launching his soul rudderless into space.

C. Colebrook, an English sailor living at Angel Camp, in the afternoon of September 26th went to the cabin of one Armstrong and plunged a knife into his heart for having called him a hog-stealer. Arrested, Colebrook was taken before a justice of the peace, and his trial began. But the people did not fancy the slow movements of legal machinery. They knew a better way, they said. An unhanged brother of this murderer roamed at large, who, had his just punishment been given him, might have deterred this deed. The murmurs of the dissatisfied grew louder, and the judge sent to San Andrés for help, the towns-people of Angel refusing him assistance. Night came on, candles were lighted, and still the trial continued. Suddenly a man rushed into court and exclaimed aloud that the sheriff was coming with a *posse* of men to shield the prisoner, and that now or never was their time. Immediately all was uproar. The lights were extinguished, judge, clerk, and constable seized and firmly held, while the prisoner was hastened to the nearest tree and his black soul let fly bat-like into the blackness of the night.

The resort to the swift and summary process of lynch law for righting the wrongs of a community is always hazardous as an experiment, and frequently results in the grossest injustice. As we have seen, the operations of the Vigilance Committee of San Francisco encouraged other communities to throw off the restraints of the law, and furious American mobs were occasionally guilty of acts of violence worthy of the wildest barbarians. In October of this memorable year of 1856 some Spaniards suspected of horse-stealing camped on Pájaro River were attacked by a party of Americans, citizens of Watsonville, and the whole party killed or captured. About six o'clock

next morning six or seven Spaniards came riding through the town, and were attacked by the same party of Americans. A fight ensued, in which one Spaniard was wounded, while the others rode away. The wounded man was brought in and tied to a flagstaff, and a mob jury was hastily impanelled. While this tribunal was in session a discussion arose among the citizens as to whether the man should be tried by the irregular jury or turned over to the authorities. It was finally concluded to submit the matter to a vote, when the sentiment appearing to be in favor of turning him over to the authorities, he was secretly let loose. Then a hue and cry was raised, and the white mob launched out in pursuit, firing some fifty or more shots at the culprit before he was recaptured. He was brought in with a rope around his neck and tied to a post like a horse. Then, having been allowed time to smoke a cigarette, he was hanged without further ceremony.

Precarious is the path of horse-thieves. At White's rancho, near Watsonville, in October labored a native Californian suspected of intimacy with a band of marauders infesting that vicinity. Arrested and brought to town for trial by the people, certain of the moderate sort prevailed upon the hotter-headed to deliver the offender to the law. Next day, no one appearing against him, he was discharged from custody. When those who had made the arrest heard that the law had loosed their victim, they pursued and recaptured him. While arranging for his trial the slippery fellow broke from them and ran. Shots were fired, which failed to bring him down, but he was finally taken for the third time. The work was becoming too long and too warm; so quickly they hanged him to a tree, thus making sure of the execution, though failing in the trial.

The people of Happy Camp, in Del Norte County, arrested two Chinamen suspected of the murder of one O'Meara and of the robbing and burning of a

store belonging to a man named Gazquet; the Chinamen confessed the crime and were hanged.

An American at a certain mining-camp, who doubtless was in haste to change his place of residence, appropriated to himself a horse belonging to one of his countrymen, and without saddle or bridle rode to Calaveras, some thirty miles distant. The owner on discovering his loss armed himself, mounted his horse, and followed the thief. The latter was taking his repast at the Empire Hotel in Calaveras when he felt a hand laid on his shoulder and heard a voice say: "Well, my friend, did my horse suit you? It was not the best in the corral, for you see I have overtaken you." Without apparent concern the other answered that the horse was in the pasture, and offered to fetch it. A ride of thirty miles had made the owner hungry, so he sat down and ate beside the thief. The meal finished, the two went to the sheriff to have the matter settled. There had been several thefts in the county lately, and the thieves had escaped; here was an opportunity to make an example. A jury was quickly convened, and by their verdict the offender was sentenced to be hanged. The condemned, a young man of some twenty-five years, tried to plead in his own behalf, but the verdict was without appeal.

He then resigned himself to death, merely asking that he might be shot instead of hanged, a favor which was granted him, as good shots were plentiful at Calaveras.

The physician of the place, who was a *soi-disant* phrenologist, noticed some peculiar traits about the head of the prisoner, and offered him ten dollars for it. The offer was accepted. The condemned enclosed the piece of gold in his tobacco-pouch, together with a lock of his hair, and asked the sheriff to send it to his mother in Missouri, at the same time begging him not to inform her of the cause of his death. The sheriff promised that he would simply tell her that her un-

fortunate son had died from the effects of a horse-race. Standing up before the riflemen, the fellow bared his breast to them, asking them not to aim at his head, as he would not wrong anybody in his last moments, not even the physician. The corpse was yet warm when a dispute arose between the doctor and the sheriff, because the latter insisted that if the former wanted the head he must take the body with it. The doctor was obliged to yield. He severed the head from the body and carried it away in a sack, swearing that next time he would expressly stipulate that he was to have the head only. The body he threw into an old mining shaft and covered it with stones.

One night in a certain mining-camp a sailor who had deserted his ship stole two bags containing about five thousand dollars' worth of gold, and seized a third containing half dollars in silver. The jingling of the coin awoke the owner, who gave the alarm, and the thief was captured. A jury of twelve miners, with a man named Nutman officiating as judge, tried the case. The sailor was found guilty and sentenced to be hanged. It was finally thought best, however, not to take his life, but to give him one hundred lashes on the bare back, cut off his ears, and shave his head, so that he should be recognized as a felon wherever he went. The sentence was carried into effect, and the fellow kicked out of camp. Stealing the first mule he came to, he rode to Calaveras Diggings, where the animal was claimed by the owner. Again he was tried, and sentenced to be flogged, but when laid bare his back was found so cut by stripes that there was no place left to whip. The miners had compassion and drove him out of the district unpunished.

In the case of an American and a Mexican, arrested at Knight Ferry in September 1856 for horse-stealing, from the crowd assembled the prisoners were allowed to select twelve to act as a jury in the trial. Before proceeding, the people decided that a majority of the jury should be sufficient to render a verdict, and

that such verdict should be carried out, whatever it might be. The decision of this jury, for a lynch court, was somewhat singular. The prisoners were found guilty and ordered to be given over to the legally constituted authorities for trial.

The people of Mokelumne Hill thought Henry Lorenze had taken Hopkins' money, but they could not prove it. One Sunday evening—it was the 4th of October 1857—Smith invited Lorenze to drive with him. Jogging along happily in a buggy, suddenly five masked men sprang from the roadside, seized Lorenze, and carried him up to a flume, where they nearly strangled him. Repeating the process of lifting up and letting down, with intervals of rest for confessional purposes, for about two hours, Lorenze was permitted to depart, nothing having been choked out of him. It is needless to say that his friend Smith did not wait with his vehicle for him.

One of the Wolfskills, of Solano County, in October 1857 lost a horse, which was supposed to have been stolen. One day the animal returned of its own accord, but with a saddle on its back. After due inquiry a Mexican living in Vaca Valley was pronounced the guilty person, whereupon a party of the horse owner's friends called upon the Mexican, who, seeing them handle with such grace and looseness the ominous hemp, threw himself upon a horse and fled. The others were instantly after him, and they finally succeeded in running him down in the vicinity of the Potrero Hills. Then they hanged him in due form; but before life was wholly extinct, on ascertaining that he was not the man they had taken him for, and no horse-thief, they lowered him gently and begged his pardon. Commenting on a similar incident, the editor of the New York *Democrat*, writing 'hung' for 'hanged,' 'vigilance committee' for 'mob,' and, perhaps, 'Illinois' for 'California,' says:

"Lynch law is tolerably effective, but it has its faults. Mistakes are liable to occur. The other day in Illinois a vigilance committee hung a man because

he looked like another man who had stolen a horse. The mistake was discovered after the man's neck had been twisted all out of shape and the breath of life had been permanently removed from his body. He naturally felt a little cool toward that committee, and no amount of apology on their part could restore him to a proper sense. The lynch-law men should be sure they are right before they go so recklessly ahead."

The Argonauts of California were not much given to vexatious civil suits, but had their own way of filing demurrers, enjoining trespassers, perfecting titles, etc.; and it certainly had the advantage of economy and despatch. In the summer of 1858 a company of miners were working a bar-claim on the Stanislaus River, near Peoria Bar, using a wheel for raising the water into their sluices. Two Frenchmen went to work below them, with a view of fluming the river, and were putting in a dam, which had attained such a height as to force the water back on the wheel of the other company, when the latter remonstrated. An angry altercation followed, the cañons for a time reverberating with the sonorous maledictions of Missouri mingled with the trilling r's of France. Then the Frenchmen, issue having been thus legally joined, went to their cabins and came forth with shot-guns, and opened fire on the others, who were unarmed, soon stretching three of them upon the ground, one dead and two mortally wounded. The Frenchmen, taking their arms, left the place. Some miners, headed by a man named Pike, followed them across the Stanislaus River and up into the Chaparral Mountains, where a fight ensued in which Pike was slain outright and one of his followers, Charles Kennedy, mortally wounded. The victorious Frenchmen then continued their journey, but probably soon found their "last camp," as all the miners of that region were on the lookout for them.

A Mexican gambler named Pansa stabbed a German at Sutter Creek. The miners selected a jury and tried the Mexican; the jury found him guilty, and the verdict was seventy-five lashes, as the Ger-

man was still living; but should he die, Pansa was to be hanged. The lashes were given with a will. The next day the German died; the Mexican was then executed. The justice of the verdict was conceded even by his own countrymen. The whipping in addition to the hanging would not have been required had the German died outright; but when the suffering of his victim for twenty-four hours is considered, the sentence seems to present some shades of equity finer than those often distinguished by the law.

Nine thousand dollars were stolen from the express office at Fiddletown on Sunday night, the 1st of February 1857. Five men, notorious as gamblers and thieves, were arrested and lodged in jail on suspicion. Unable to obtain the facts in the affair, two of the prisoners the Tuesday following were taken out and lifted by ropes round their necks, but were lowered before life was extinct. They would confess to nothing, and were set at liberty. On Friday another, Stepperfield by name, having displayed much bravado throughout the affair, was brought out, pinioned, and hanged to a tree, but was rescued by the sheriff, who removed him to Jackson jail.

The people of Bangor, Butte County, it appears did not approve of the murder of Chinamen, even by white people. On the 2d of April 1857 four men, who had escaped the sheriff holding them on a charge of killing a Chinaman, were pursued and captured by the people, and three of them instantly hanged. Before the execution the criminals confessed their guilt. They belonged to a gang of about fifty outlaws.

Gold in tempting quantities being discovered on Butte Creek in the early summer of the same year, the treasure-hunters assembled to adopt measures for laying out a town. First the spot must be christened. 'Goatsville' one suggested for a name; another 'Hubersville,' another 'Shaderville,' but 'Diamondville' carried by seven majority. Hanging seemed next in order; that is to say, let an example be made, and so

secure safety. The victim was a Chinaman seen robbing the sluice of one Timothy O'Mera at midnight. The heathen was detected by a watchman and shot, once, twice; notwithstanding the leaden increase of weight, John ran two hundred yards, when he fell and was captured. Semi-strangulation was resorted to in order to ascertain the whereabouts of plunder previously taken. John was firm. Off came the pride-sustaining queue; still John spoke no words. Finally even his Chinese stoicism gave way, and the poor Celestial promised if his tormentors would take him to the tent of a countryman he would pay two hundred dollars, which was the amount said to have been taken. Unable to walk, the miners carried him; but arrived at his brother's, alas! he knew him not. Distress severs the affections even of Chinamen. Some were now for hanging what remained of John upon a tree. But others said No; what advantage should accrue from extinguishing the little light left in that unhallowed lamp?

Entering Auburn by a certain road early one morning in February 1858, one might have seen, perhaps with some surprise, a black body pendent from a tall pine about half a mile from the town. The negro's name was Aaron Bracy, and he was placed there, at some moment selected from the silent hours of the night previous, by the citizens of Auburn, who took him from the custody of the law, to which he had voluntarily delivered himself after the murder of a much respected inhabitant of the place.

It is not often that a Chinaman kills a white woman in California; yet there was such an occurrence at Cooke Bar, near Sacramento, the 18th of October. Mrs Sarah Neal, a respectable Irish woman with four or five thousand dollars, kept a store at the time and place above mentioned. Shortly after mid-day, during the hours of business, while the woman happened to be alone in the store, a Chinaman entered and with a knife cut her to death. The Chinaman

was immediately hanged by the people. The cause of the killing is not known; John's ways are mysterious.

Harrison Morgan and Richard Wallace were arrested the 30th of November 1858 on suspicion of the murder of John Leary, constable of Columbia. The prisoners were lodged in jail at Sonora, and on the 2d of December were taken to Columbia for examination. Wallace confessed to numerous thefts, but denied the murder; against Morgan there was stronger evidence of guilt. Meanwhile the cloud of popular opinion blackened without. The officers saw the coming storm, and when ready to remove the prisoners ordered the court-room cleared of spectators. The sheriff's buggy was standing at the back door; and as all seemed quiet, although the assemblage was large, he did not anticipate danger. Sedgwick, the sheriff, and Mullan, the marshal, took Wallace, while the deputy sheriff and a constable conducted Morgan. As the party passed out, a rush was made by the crowd for the prisoners. Morgan's keepers struggled manfully to hold him, and Morgan struggled manfully to be held by them; but the mob was too many for them, and away he went to his death. The sheriff, when he saw one prisoner lost, shoved Wallace back into the court-room. There were now comparatively few people about the place, most of them having followed Morgan. Yet there were enough to give the sheriff a severe struggle before he succeeded in placing the prisoner in the buggy beside the driver, and sending him as fast as the horse could run, with the mob howling at his heels, toward the Sonora jail. Night came on apace, cold and windy. With the departure of the sun the feverish passions of the multitude subsided. The miners scattered to their homes; and where so lately the infuriated mob had stirred the dust with their wrestlings and rent the air with cries of vengeance, quiet reigned. Along the dusty road that leads from Gold Springs came roundly racking a dusky child of the Flowery Land. A basket of fish

was on his head, and round his heart played feline strains of home. Just as he was passing under the flume that crosses the road near the town his head came in contact with a long swinging object, which sent his basket of fish flying into the bushes. Looking up he saw dangling about his head the grim corpse of Morgan the murderer, left hanging there a few hours before by his relentless executioners. John's breath came wheezing; his coppery face assumed an amber hue; his almond eyes grew round; the very tail of him rose and pointed backward toward the object of his consternation as he ambled swiftly into town.

As late as 1859 pistol-carrying obtained at Mariposa. To see rational, civilized human beings mingling friendlily or passing back and forth between neighboring towns with huge six-shooters strapped to their waist, as if to kill and keep from being killed constituted an important part of each day's economy—it was interesting. There was a whole volume of unevolved sociological science in it. It was most kind in Mr Colt, just as gold was discovered in these parts, to furnish Californians with such beautiful claws as God had forgotten to give them. All animals but man have weapons forged for them by nature; now man has his, and the work of creation is complete. Claw, cut, shoot, kill, thou more than wild beast! for the brute does thus for food or safety, and under the influence of instinct, while soul-endowed intellectual man kills for nothing, oftentimes for the mere pleasure of killing.

The body of a murdered man named Shields was found near Pine Grove, Sierra County, in the spring of 1860, and one John O'Donnell was suspected of the crime. Shields was known to be the seducer of O'Donnell's wife, and by the better portion of the community the homicide was considered justifiable if perpetrated by the man whose home had been thus destroyed. Shields' friends, however, determined that

O'Donnell's life should atone for the murder, and his arrest was demanded. A legal trial was instituted, where the conflicting testimony made it probable that the jury would acquit him; but in case the jury disagreed, O'Donnell was to be transferred to the Downieville jail, thirty miles distant, to await further investigation. The snow was deep at the time, and the Shields party expressed fear that O'Donnell might escape the authorities while being transferred. To remove all uncertainty as to acquittal or escape, the rough element banded, numbering about one hundred and forty men, and disguised, marched, toward midnight the 2d of April, to the hotel where O'Donnell in the custody of a constable was taking supper. Surrounding the building, they awaited the signal, two pistol-shots, when the mob rushed forward, entered the room, seized O'Donnell, and without allowing him any time for preparation, led him to Pratt's livery-stable, where they improvised a gallows and executed him, leaving the body to disclose the deed, but nothing to indicate the authors of the tragedy.

In the spring of 1861 at the mission of San Gabriel crime assumed atrocious proportions in the frequency of abusive attacks by men upon their wives. Within a week or two no less than three Californians had been arrested for inhuman treatment of women, one of whom had been sentenced to the state-prison for five years; another was in jail awaiting sentence, while the third, Alvitre, received immediate punishment by the people, as the following account details: José Claudio Alvitre, a hard-drinking man sixty years of age, lived with his wife at the old mission. They had a family of twelve children, the most of them grown up and away from home. The old man when under the influence of liquor seemed to have an almost insane desire to abuse his wife, for which offence he had recently been imprisoned for four months. On the 5th of May, after drinking freely, he determined

upon taking more severe measures than ever, and giving errands to his several children, was left alone with his wife, whom he stabbed several times, causing immediate death. As soon as the fact was made known a crowd gathered about the house, and seizing Alvitre, took him to a tree, where his countrymen had made preliminary preparations for his execution. The circumstances needed no investigation; there was no doubt that the woman had been murdered by his hand. Accordingly he was placed on horseback beneath the tree, a lariat thrown over a limb, one end noosed about his neck, and the horse driven from under him.

Between Elizabeth Lake and Fort Tejon in March 1862 some travellers discovered four bodies suspended from trees. They had engaged in cattle-stealing with impunity for some time, but at last, overtaken by the owners with the stolen cattle in their possession, they had been executed without trial, and their bodies left unburied as a warning to others.

The 24th of August 1863 at Gilroy an Indian was arrested for the murder of a teamster. The culprit was committed for trial by the court, but the mob took him from jail and hanged him from a tree in the street. It was only a poor native; he had no money; what was the use of trial?

Charles Barnhart and William Riggs, the 22d of June 1865, at Susanville, *en route* for Chico, quarrelled about a piece of rope. The shortest way to settle the difficulty was for one to kill the other, and this the former did. The shortest way to justice was to hang the homicide with the same piece of rope, and this the passengers immediately did, erecting apparatus for the purpose from the trams of their wagons. *Ergo*, of the three subjects to the controversy, Charles, William, and the rope, there remained only the rope.

On the 19th of November 1866 the store of John Newhouse in Chipps Flat, Sierra County, was robbed

of goods and provisions. The following night Newhouse went alone to search the premises of some Chinamen whom he suspected of having committed the robbery. As he did not return, his friends became alarmed and went in search of him. After visiting several Chinese camps to no purpose, there appeared enough suspicious circumstances to justify them in arresting a Chinaman called Whalebone. Promising no harm should befall him if he would confess what he had done with Mr Newhouse, he led them to a place where the body lay. The Chinese had cut it in two, that they might the more easily dispose of it. The body was removed to Chipps Flat, and Whalebone was brought before the justice of the peace, who began a legal inquiry. The report of the murder having spread, a crowd of two hundred miners gathered round the mutilated corpse, the sight of which so exasperated them that, in spite of all the officers could do, they burst into the court-room and took the trembling Whalebone and stoned him to death; then hanged the body to a limb of a tree. After that they went through the Chinese camp and levelled every cabin to the ground. It was only by the utmost efforts of officers and the better portion of the community that a general destruction of all the Chinese property in the county was prevented.

Another execution at San Juan is recorded as having occurred on the 16th of May 1867. One Elder Thompson, working for F. Ross, assaulted Mrs Ross in the absence of her husband. Thompson was arrested, and while being taken to jail to await the action of the grand jury, the stage in which he was riding was brought to a halt by a band of masked men, who, seizing the prisoner, dragged him to a tree and hanged him. The neighbors found the body there the next day and buried it.

Estévan was a bad Indian; and when under a tree in the alameda of San Juan on the morning of the 21st of August 1867 the body of William Fitzgerald

was found dead, suspicion fell on Estévan, for he had been seen to leave the town that morning. Pursued and brought back, he was regularly tried by the people and executed beneath the same tree where lay his yet unburied victim. His guilt was clear, some of the dead man's clothing being on his person when arrested. Like a martyr, like a Roman, like any one who manifested the utmost indifference to fate, sighing no sighs, groaning no groans, praying no prayers, asking no favors from God or man, Estévan died; and yet he was only a poor bad Indian. For this no one sings Estévan's praises; why then so laud the great and good who die serenely?

At Greenville, Plumas County, a reckless fellow, Webb, stabbed and killed an unoffending citizen named Gephart on the 30th of March 1868. Webb was arrested by an officer, who was obliged to surrender him to an incensed crowd and see him executed that evening without trial or time for preparation.

Considerable suffering was caused the settlers round Clear Lake from the overflow of waters, which they believed came from the dam thrown across Cache Creek by the flour and sawmill company. Failing to obtain redress from the courts, three hundred men, armed to the teeth, assembled at the mills on the 15th of November 1868 and began the work of destruction. The sheriff with his assistants appeared, but not only were they unable to control so powerful a force, but were themselves taken prisoners. A request was sent the governor for troops, but it did not reach him until after the mills were burned and the dam torn away.

A gang of Mexican horse-thieves was pursued by Sheriff Bourland and his *posse*, of Tuolumne County, in August 1869, and overtaken between Hornitos and Lagrange. The officer, meeting with resistance, fired upon the Mexicans, killing three. They captured one named Robbes, who was taken to the sheriff of Snelling, Merced County, with orders to be sent by him to Sonora. A deputy sheriff started with him

in a buggy, but was stopped on the way within a few miles of Lagrange by four masked men, who seized the prisoner and hanged him.

From the calaboose at Watsonville three men, committed for the murder of one Indian Bill, were taken by a mob to Pájaro bridge and there hanged on the night of the 16th of May 1870.

In the jail-room of the Oroville court-house on the morning of the 24th of August 1870 C. Olsen lay confined for the killing of M. Logan. Before daybreak about forty men surrounded the premises and posted their sentinels at each corner and at the entrance. A party of them then entered the jailer's room, in the basement of the building, and seizing the under-sheriff, Vera, wrested from him the keys of the jail. No one present knew how to use them except Vera, and he refused to reveal his knowledge. The jail door was then battered down, and the cell entered where Olsen was confined. Dark hints of bloody acts done within those narrow walls were thrown out, but nothing definite is known. That Olsen was shortly afterward taken to a derrick near the railroad station and hanged was a fact palpable to all.

At Bakersfield on the 6th of September 1870 Juan de Dios Sepúlveda, of Los Angeles, was taken from the custody of the sheriff to a cotton-wood tree near by and hanged by the people. During the day the great number of native Californians well armed and most of them mounted had been remarked. These had leagued with the white citizens of that vicinity to rid the country of bad characters. Sepúlveda had been before Justice Jones for examination, and when he was brought out, one of the horsemen rode up to the officer as if to speak to him. Watching his opportunity, he suddenly seized the prisoner; the crowd pressed round to his support, and hurrying the unfortunate man away, they accomplished their purpose.

In El Dorado County some jewelry was stolen during the winter of 1872, and suspicion fastening

upon a Chinaman, he was tortured by strangling three times, to extort a confession as to the hiding-place of the valuables. As he reiterated to the last his innocence and ignorance of the theft, he was liberated. There was an arbitrary execution in Cholame Valley in 1873, and several bad characters were expelled from Gilroy and Salinas.

George Blanchard was a young man from New England, twenty years of age, employed on a rancho in 1874 by a Mr Wild at San Luis Rey. Patrick A. Graham, a neighbor, brought to the rancho a horse belonging to Wild, which he said had strayed upon his land. Graham told Blanchard there was fifty cents to pay, which he would call for the following day. Accordingly he went to Wild's house, and was met at the door by Blanchard, who shot and instantly killed him, neither having spoken a word. On Saturday, the 14th of February, Blanchard was found on the banks of the San Luis Rey River hanging from a tree, the rope looped at the back of his neck and a wooden gag tied in his mouth with a buckskin string. Nothing was ever discovered in explanation of how or by whom the hanging was done.

At Silver Mountain one Reusch shot a man named Ericcson in the back of the head. Some of the citizens banded, believing that unfair means would be used to clear Reusch. On the night of the 17th of April 1874, while deputy sheriff Davidson, accompanied by eleven witnesses, was conveying the prisoner to Bridgeport, Mono County, he was met by a body of vigilants near Johnson's bridge, who forcibly took Reusch from the wagon and ordered the others to proceed to the turn of the road and wait there ten minutes. An inch rope was at once placed round the prisoner's neck and the other end fastened to the bridge. Piteously the wretch begged, "My God! what can I say? O my father! my poor mother! will no one save me?" The mercy he had denied his innocent victim could not be granted him. A moment

later and a piercing shriek broke the awful stillness; the fall, twelve feet, was so great that the rope broke and the body fell a distance of twenty feet. C. P. Goff, counsel for Reusch, and Mrs L. C. Brittan were warned "by an outraged community," as the order was signed, to leave the county within thirty days.

At Windsor, Sonoma County, two well known farmers named Rowland and Charles W. Henley had ranchos adjoining. A feud had existed between them concerning their land rights, which Henley brought to a crisis on the morning of the 9th of May 1876, when, in the midst of a quarrel, he raised his shot-gun and discharged some bird-shot into the body of Rowland, who fell mortally wounded. Henley at once started for Santa Rosa, where be delivered himself to the authorities and stated the facts. He said that he had acted in self-defence; but as there were no witnesses, the case in court would prove doubtful. Henley was a white-haired man of fifty-five, and married; Rowland was ten years younger, and unmarried. Naturally a trial should follow and justice be administered. But at midnight on the 9th of June a force of one hundred masked and armed men took possession of the jail. They had cut the bell-rope of the engine-house to prevent an alarm, had captured the watchman near the prison, and had entered Sheriff Wilson's house, obliging him to dress and come with them to the jail, leaving a guard of eight or ten to see that the women should not make known their plans. Arrived at the jail, they surrounded the sheriff, and with pointed pistols ordered the various gates and doors to be opened, their men stationing themselves in positions designated. Then Wilson was told to unlock Henley's cell. There lay the prisoner sleeping peacefully. Suddenly awakened to the awful reality, he exclaimed brokenly, "Oh Lord, boys! my life!" Not a word more, for he was gagged, bound hand and foot, and hurried out of prison. The crowd moved on, leaving ten men to guard the watchman

and sheriff, who after a while were told to lock the prison, extinguish the lights, and enter a wagon, which they did. They were then driven to a place known as Gravel Slough, where they were released and allowed to walk home. They immediately notified the authorities, who proceeded to look for Henley, whom they found hanging from the limb of an oak within one hundred and fifty yards of the spot where the sheriff was released. The press condemned the proceedings in strong terms. The Sonoma *Democrat* of June 17th says:

"For the first time in its history Santa Rosa has been outrageously disgraced by the violence of a mob. We do not hesitate to denounce the act as a dastardly outrage on the law and on common decency. There can be no excuse sufficient for overturning and bringing into contempt the majesty of the law which protects the life and property of every citizen."

Says the San Francisco *Post:*

"One of the most reprehensible cases of lynching that has ever occurred in this state took place at Santa Rosa on Saturday morning. Howsoever guilty he may have been in this one act, he was not a desperado, not a man dangerous to the community, where for many years he had lived an inoffensive life. He was led away from the even tenor of his course by extraordinary circumstances, and was awaiting in jail the punishment which the courts might inflict. Under such circumstances he is ruthlessly seized by a mob and hanged. Public sentiment must condemn such an act, and no effort should be spared to bring the perpetrators of the crime to justice. The era of vigilance committees has passed in this state. There is no longer a shadow of excuse for their action, and the heinousness of such an offence is as much greater than ordinary murder as organized crime is more deplorable than individual violation of law."

It was a gay wedding, but it was the dance of death which followed. The ceremony of uniting Thomas Flanagan and Mary Pina was performed by Judge Harrison at Sanel Valley the evening of the 20th of December 1875. Among the honored guests was William Grangene, a repentent thief, who had served a term in the state-prison for grand larceny. While this man was standing on a box near the window a ball fired from without came crashing through the glass, came crashing through the ex-convict's skull,

liberating the crime-concocting intelligence therein contained, liberating mysterious life, and leaving only the carcass prostrate upon the floor. José Antonio Igarra, once of Vasquez' band, was suspected and arrested, but while the examination was proceeding before Justice Dooley at Hopland, a band of undisguised men entered the court-room, took thence the prisoner, and hanged him from an oak in the street three hundred yards distant. Grangene had lately given evidence in court which Igarra did not relish.

Near Cloverdale in December 1876 one Joseph Murphy was taken by masked men from the hands of the constable while on the way to Santa Rosa with the prisoner, who was accused of horse-stealing. Conducted by his captors a little distance from the road, Murphy was gently elevated in the attitude of intended strangulation three several times for the purpose of enforcing a confession as to who were his accomplices. But Joseph told nothing, and so was handed back to the officer, who had been meanwhile guarded by members of the party.

At Santa Cruz, the 3d of May 1877, from the cross-beams of the upper San Lorenzo bridge, within three hundred yards of the spot where he was born, at the age of twenty-one José Chamalis was hanged by about forty masked men. Francisco Arias, born near Pescadero thirty-eight years previous, was executed at the same time and place. The two men had been arrested a short time before for the murder of De Forest, and had confessed the crime. Chamalis had served a term of three years in the state-prison for the robbery of a widow named Rodriguez. Arias had served the same time for the murder of a sheep-herder in San Luis Obispo, and two years for robbing the house of P. Murphy of Watsonville. The two jail-birds were then free. The circus coming to Santa Cruz, they desired to see it; during their long residence at San Quentin they had not enjoyed a single evening's amusement of that character. But they had no money.

"Never mind," said Arias, "we will get some." So De Forest coming along, Arias fired at him; but failing to bring him down, he fired again, this time with fatal success. Eight dollars were secured by this achievement, and the now happy pair went to the circus, and no doubt enjoyed it hugely.

All which doubtless was very exasperating to the neighbors and friends of the slain man and to the people of Santa Cruz. For circus-money to kill an unoffending man while quietly walking the road, and then almost to boast of it, exhibited a human depravity of lower depths than language can reach. The men should die, and quickly; of that there could be but one opinion. But the Santa Cruz of 1877 was not the Santa Cruz of 1853. Either we must have laws and obey them, else not. If the friends of De Forest may break into jail and hang two very bad men who are surely guilty, and so save the state much trouble and money, may not the friends of the next man slain seize and execute the slayer, when it was not sure he was deserving of death?

The necessity for forty men to blacken their faces, secure the jailer, break open the prison, seize two prisoners, place them in a wagon, drive them to a place of execution, halter their necks to a beam, and then drive the wagon from under them, was no more neeessary at this time in the quiet and respectable young city of Santa Cruz than in San Francisco, Boston, or London. In the one place, as in the others, the prison was secure, the officers faithful, and the judges just. There was no shadow of excuse for passionate summary execution. In the annals of punishment upon this coast I have not met an instance so utterly inexcusable. There are many more brutal and unjust, but none so uncalled for. What these forty men did was simply this: They defied righteous law, brought competent justice-dealing courts into contempt, and committed murder. Life and property are little less secure in the midst of a rabble ready to avenge one crime by

committing another than in a society where every man is his own judge and executioner.

Good men will always lament the unnecessary resorting to popular means for the punishment of crime. The duty popularly to punish crime in the absence of adequate government has not been usually a pleasant one. Gladly did the people here welcome good government when it came; gladly, as a rule, did they leave punishment to the law when the law was honest and capable. When it was not, it is my pride to say they were not slow to detect it; they were not slow to see, to think, to act. Of one thing we may be sure, namely, that no more in the Pacific States than elsewhere in America is there a disposition to administer popular justice. For every case in California, like this of Santa Cruz, during the last decade we might cite ten elsewhere: like the hanging of Stevens and Andrews at Warrensburg, Missouri, the 21st of May 1867; and that of Kennedy and others at Wyoming; and Evans, Hall, and White in Alabama; or even the threatened organization of a vigilance committee in our federal capital.

"I feel devilish and must kill somebody!" exclaimed Justin Arajo as he sat in a store at San Juan, Monterey County, about noon the 12th of July 1877. Going to the door he saw some one standing by the post-office. "That man's my meat," he said, and drawing his pistol, shot him through the breast, killing him instantly. Arajo then attempted to fly, but was caught and incarcerated. Manuel Butron was the name of the victim. As night came on, sleepy justice aroused itself and shook out its musty robes. About one o'clock masked men overpowered the jailer, took from him the key, entered the prison, and taking the villain to a willow-tree on the alameda did him to death. Never again will Justin Arajo feel devilish in this world; he is now where he may enjoy devilishness in a world without end.

Christopher Mutchler attempted to fire Hagermann's

saloon in Germantown, Colusa County, on the night of April 30, 1878, and while so engaged received three shots in the thigh from persons then in the house. The incendiary was arrested, but no one appearing against him he was discharged. Fearing violence from the citizens, who threatened him, Mutchler attempted to leave town, but found exit barred, even the stage men refusing to carry him. Nevertheless he managed to drive away in a private conveyance during the night, but was soon arrested and brought back on charge of having threatened the life of J. Kelley. Not long after, fourteen masked men entered the place where Mutchler was confined, dragged him into the street, and shot him to death. Mutchler had money; the prosecuting attorney had none; the judge had but little. After an interview with the incendiary, on his first arrest, the prosecuting attorney declared there was no case, and the judge discharged the prisoner; then the prosecuting attorney absconded and the judge resigned.

Thus we see how the work goes on, even to the present day; and we may be very sure it will continue until law courts cease to be but a mockery of justice.

CHAPTER XXXI.

THE DOWNIEVILLE TRAGEDY.

Souls made of fire, and children of the sun,
With whom revenge is virtue.

Young.

It was a rare thing in California, extremely rare, for rough men to lay their hands upon a woman. About the only sentiment of youthful memories which with time and distance had not only remained but had become softly intensified, was that of home hallowed by the tender influence of mother, sister, or that nearer, sweet other self, wife. So woven among the fibres of the heart was it, so mingled with the sensuous blood, so wrapped within the folds of passionate imagination, that, like ash-covered coals, the drearier the aspect without, the warmer glowed the fire within.

They could cut each other with knives—these miners, riddle enemy or friend with bullets and smile at it; they could strangle a sluice-box thief, snap the neck of a Chinaman by a twist of his pigtail, whet their appetite for breakfast by the butchery of a ranchería of natives, but injure a child, ill-treat an old man, or do violence to woman, they could not.

They were men, every inch of them men—coarse and brutal in some respects, but still men. They could do wickedness by the cañonful, but it must be manly wickedness done in a manly way.

Woman was their weak point; the memory of woman the only thing mellow about them. Since the day when chivalry lifted her from feudalistic abase-

ment, endowed her with charms and graces human and divine, fought for her on the fields of knight-errantry, and adored her as the immaculate mother of God, woman has not been so idolized.

A woman to a mining-camp brought the odor of Araby, brought the sunshine of Eden. The atmosphere was mellowed by her influence; the birds sang sweeter for her coming, the ground was softer to sleep on, the pick was lighter, and whiskey less magnetic. Fair was the form of her, radiant her presence, thrilling her touch. Her dress was as the drapery which shrouded the mysterious holy of holies, and sacred was the hem of her garment.

It mattered not so much to them who or what she was; she might be chaste and fair or as wicked as Jezebel, she was the impersonation of their fancy-ridden brain, the expression of their innermost ideal of the beautiful and good. Possessed in all things else of physical affinity with debasement, the thought of her was the sister of their solitude. Open their hearts, and there amidst the débris of a thousand crushed longings her image alone remained unbroken.

Then wild indeed must be the fury that maddened them against a woman; and never was insensate wrath more manifest than among the miners of the Yuba for miles on either side of Downieville when, on the morning of July 5, 1851, it was known that a comrade had been slain, butchered with a long sharp knife, and by a woman. The matter of sex was suddenly lost sight of, swallowed in the gulp of passion which left nothing to the mind but the abominable bloody fact.

Joe Cannon killed! Cut to the heart, and by a woman! The words were confusing. The breath that uttered them came labored; thick it was, and murky in its significance. The blood, receding from the heart, clogged in the veins, and respiration was well nigh throttled by the messengers of the brain. Joe was the favorite of the camp, the finest fellow that ever

swung a pick or dislodged a bowlder. He was over six feet high, straight as a poplar, with limbs as clean as those of a newly barked madroño. In weight he fell not far short of two hundred and forty, and it was all muscle; his chest was like that of an ox, and the arms of Hercules hung from his shoulders. And yet he would not harm a fly; his heart was as tender as his sinews were tough. Joe gone! Stabbed to death, and by a woman!

He was the soul of honor, was Joe Cannon. He knew not the meaning of the words cheating and chicanery. He was not very learned; single and simple were his thoughts, and double-dealing found no place in his accounts. He liked his occasional frolics. The strongest need a respite; one cannot always work; but though he could laugh and carouse with the best of them, he was kinder in his cups, if possible, than out of them. There was no poison in his heart that the most fiery liquid could bring to the surface. In nobleness only he was a giant; in guile he was a child. Joe Cannon dead! Stabbed in the breast, and by a woman!

Slowly as with its fullest force the fact was realized, at last it settled on them that it was true; and from the friction of the ebb and flow of heart and brain tides there sprang a heat which, increasing with the whirl of thought, glowed all the fiercer from being smothered beneath stifled emotions.

All along the muddy Yuba, and up its muddy tributaries, the accursed tidings sped like an electric message, telegraphed from claim to claim, until for miles round Downieville were heard the cries of "Murder!" "Joe Cannon killed!" "Cut to the heart by a woman!" Then dropped pick, pan, and shovel as from palsied hands; water was left to run to waste, and the gold unwatched in the bottom of the sluice-boxes; and from up and down the muddy Yuba, and down its muddy tributaries, streams set in, streams of angry miners, silently flowing, though hot with melted emotions.

Five thousand men and more gathered in Downieville that day. Thronging the streets were traders, packers, and prospectors, gamblers, prostitutes, and politicians, professional rascals and rascally professional men, besides the miners from the thickly studded line of claims that mutilated the river beds, and banks, and gulches all up and down the foothills.

At ten o'clock the deed was done, and at eleven, surrounding an unfinished tenement of split-boards into which the unfortunate man was carried when stricken, was a dense throng. Within, just where he was first laid on a slightly sloping puncheon floor, lay the dead miner. No, not yet quite dead; life seems loath to leave a mechanism so perfect and of such fair proportions. The breath comes light and fitful, though from strong lungs still struggling to perform their functions. A broad stream of blood has clotted for itself a channel from the breast to the extremity of the floor. Standing round the prostrate form were half a score of miners fresh from their work, with their woollen shirt-sleeves rolled up above the elbows, and their overalls tucked into the tops of their ponderous and muddy boots; silently and solemnly they stand with their grizzly heads uncovered and slightly bowed, while round the contracted brow and compressed lips sorrow and anger struggle for the mastery.

Silence within and silence without, until at length the slaughtered miner ceased to breathe; then from the deep stillness there rose a murmur, at the first almost as faint as had been the dead man's breath, but gradually increasing into a low deep buzz, which every border man in an angry multitude instantly recognizes as significant of blood. Expressive to the last degree and deadly ominous is that sound, coming as it does from a silent multitude, breathing an unspoken vengeance more terrible than the loudest trumpetings of passion.

Soon men began to speak in words. Fresh arrivals came pouring in. Strangers asked, Who is he? Who

killed him? Where is the murderer? Presently the centre of the mass from standing groups and purposeless indirection began to surge in a definite direction, signifying all too plainly that it was time for some one to prepare for a sudden and decisive change. Pregnant enough with purpose were now the miners. You could see it in their eye, in their step, in the movement of the hand; their pipes smoked of sulphur, and with their tobacco-juice they spat fire. Most significant of all, however, was the almost silent buzz, which was the low purring of the blood-thirsty beast about to spring upon its prey.

It was a little woman; young, too—only twenty-four. Scarcely five feet in height, with a slender symmetrical figure, agile and extremely graceful in her movements, with soft skin of olive hue, long black hair, and dark, deep, lustrous eyes, opening like a window to the fagot-flames which, kindled with love or hate, shone brightly from within. Mexico was her country; her blood Spanish, diluted with the aboriginal American. Her name was Juanita. The man she killed, with one hand could have picked her up and tossed her into the Yuba River. He was an Englishman and an Australian colonist, but not a man of Sydney in the sense then current.

Though a stalwart Britisher, yet he could not let pass the immortal Fourth without assisting at its observances. True, it was not a memorial of his country's greatness; but while the Yankee celebrated America's successes might he not join him and celebrate England's defeat? Why should we call to mind our glorious gains and not our no less valuable losses? The lesson was profitable to England, and surely her Australian colonist might properly acknowledge it. Though in truth Joe Cannon thought more of the potation part of the performance than of the patriotic. Any day was Fourth of July to him and worthy celebration in which his comrades would turn out and carouse in company.

And this time they had made a glorious night of it. Joe Cannon, with the rest of them, was very drunk, and consequently very happy. From store to store, from house to house, up and down the streets and through all the streets they went, rapping up the inmates, compelling the master of the house to treat and then to join them. It was rare fun.

Passing the premises of a Mexican monte-dealer, Joe Cannon kicked at the door. As he was not in condition to stand steadily on one foot and carefully to weigh the force of the other as it went against the door, he may have given it a little harder blow than he intended or than was necessary. As the door was secured only by leathern hinges, it fell in. At least so the boys told him next morning—that he had kicked in the Mexican's door.

That was all right, said Joe. He knew the monte-dealer well, and had often bet an ounce or two in passing his table; the damage could not be great; he would go around after breakfast, pay it, and apologize. True, there was the wife, or she whom the man lived with as with wife: she might not perhaps appreciate the foreign patriotism which so disturbed rest—but she was a bashful, retiring little thing; no one thought of her. Besides, they were Mexicans, and their footing was not by any means too secure in the community as it was. A man, a miner, a big burly favorite, what were fifty Mexican gamblers and their mistresses to him? Nevertheless no man should be able truthfully to say that Joe Cannon ever did him wrong, drunk or sober.

Approaching the house, Joe found the door still down. The Mexican was within; and placing a hand on either door-post to steady himself withal, for his head seemed now as big as a barrel, and his legs were a little shaky, he began talking to the man in broken Spanish as best he could. Suddenly from a corner where she had lain concealed, quick as a flash the little woman sprang up, threw herself upon the strong

man's breast, and buried her knife in his bosom. It was all done in an instant, and he who had come to make reparation for a trivial injury committed in a moment of frolic, he, the picture of physical perfection, the pride of the camp, lay as dead.

Why did she do it? Did this man visit her house to insult her? Had they ever met or had intercourse at any time; and was there ill-will existing on either side? No one knew. Who shall fathom a woman's heart? All those miners knew or cared to know was that for so slight a thing as she it was a monstrous blow. The bowie-knife was large and sharp, and to send it into his gigantic frame, through his shirt and through the breast-bone clear into the heart, that little arm must indeed have been tempered by most murderous passion.

And now, when the enraged miners with a blow of the fist burst her door and stood before her, Juanita manifested not the slightest fear; and yet she knew that she must die. It was not defiance, nor brazen impudence; she assumed no character—she acted only the primary sentiment of her nature, and that was stoical submission to inexorable fate, or more simply, cool courage.

She knew that she must die, and there was an end of it. Within range of pistol-shot were two thousand men, each one of whom, if standing alone, harbored that moment determined purpose sufficient to insure her death, and she knew it; the very certainty of the result seemed to disarm death of its sting. Every one of the vengeful two thousand now arrayed against her would soon die; she must go now. Well! will any one of them have a more gorgeous exit hence than she?

Hastily putting in place some scattered articles, and glancing carefully at her dress—she was already attired in her best—she signified her readiness to go. The blaze of angry eyes, the forest of frowning faces through which blew deadly murmurings, were all

lost on her; she was thinking of her own affairs, thinking should she send something to her friends, thinking about her household, and how her husband would do in her absence. Of course they would hang her; as for the paraphernalia of trial it might be some gratification to them, but it was nothing to her.

There yet stood near the centre of the town a large pavilion, which had been erected for the celebration ceremonies the day before; there was a raised platform, with chairs and table, just the place for the occasion, and there the dark-eyed bashful little murderess was conducted by her guard of two thousand.

Twelve men responded eagerly to the call for a jury; happy he who should have any part in this gentle strangulation. Glancing at each other and at the miners round them, they seemed to say, "All is safe and settled; woman or no woman, she hangs." Lawyers for the defence were backward in presenting themselves; there were plenty for the prosecution.

Probably in the history of mobs there never was a form of trial more farcical than this. Had they hanged the woman immediately, our respect would be greater than when we see a criminal so absolutely and universally prejudged and sentenced before trial. Never have I met an instance where so many men, or a tenth of them, were so thoroughly ravenous in their revenge. It was wholly unlike them. It seemed that on the instant they had not only thrown aside their usual chivalrous adoration of sex, but that now they would wreak their relentless disaffection on the object of their abhorrence in proportion to their strength and her weakness.

That there was so little of this little woman to pulverize and scatter seemed to exasperate them. A humane physician, Dr Cyrus D. Aiken, mounted the stand and testified that she was not in a fit condition to be hanged. What such testimony had to do with the case nobody knew or cared. A howl of disapproval followed; the good doctor was driven from the

stand, driven from the town, and dared not return or show himself for several days. A Mr Thayer of Nevada attempted a speech on behalf of the prisoner, as there was not a lawyer who had the courage to stem the tide of unpopularity in her defence, but he was beaten off the platform—ay, kicked from the tribunal; and on reaching the crowd without, where a passage-way was opened for him, he was kicked along this gauntlet out of town, being glad to get across the river with his hat and mule behind him.

John B. Weller, then running for congress, was at the hotel overlooking the tribunal. He was besought to go out and speak to the mob, but he had no ambition that way. He was not of the stuff of which martyrs were made. There were times and places for all things: a time for advocating law and order, and a time for refraining from such advocation; and clearly this, in the eyes of John B. Weller, country-server, was one of the latter times.

So Juanita was tried; but the trial was a sad, one-sided affair, in which there was a total absence of that love of fair-play so characteristic of the American miner. No one dared to say a good word for her; no one was allowed to defend her. In so far as she was small and weak, and they were many, and great, and strong, in so far did their insensate fury intensify with the progress of affairs. For the moment the men of that region seemed baptized by Satan for the execution of a work of infernal grace.

When the verdict was formally declared, Juanita gave a quiet little laugh, as if to say, How droll! These great American men think in this aping of ancient forms they have given their prisoner a trial. Stroke conscience the right way and you can do anything with it.

In the four hours allowed her before her execution, Juanita made her will verbally, arranged her affairs, and gave her few effects away. During it all her heroism carried her far beyond the usual stolid forti-

tude of her race. At a time when men tremble and pray she was her natural self, neither gay nor sad. She was as far from looking lightly on the matter as giving way to senseless sorrow.

The builder of the bridge that spanned the Yuba had left at about the middle of it two uprights with a beam across, as if for the express purpose of hanging. It was just the place for the occasion, though from that point, with the flowing river underneath, and on either side with the rolling hills in front, and in the background the purple-misted mountains glowing in the light of the almighty sun, it was too beautiful a world for a young, free, light-hearted woman to wish to leave.

With a light elastic step, surrounded by her friends, chatting with them quietly on the way, Juanita walked down to the bridge. She shook hands with them all, but not a tear, not a tremor was visible. By means of a step-ladder she mounted to a scantling which had been tied for her to stand on between the uprights underneath the beam, took from her head a man's hat which had been kindly placed there by a friend, shied it with unerring accuracy to its owner, meanwhile smiling her thanks, then with quick dexterity she twisted up her long black tresses, smoothed her dress, placed the noose over her head and arranged the rope in a proper manner, and finally, lifting her hands, which she refused to have tied, exclaimed, *Adios, señores!* and the fatal signal was given.

The Downieville Vigilance Committee was not organized until after this affair, as the following letter indicates:

"DOWNIEVILLE, July 27, 1851.

"*To the Vigilance Committee of San Francisco:*—

"GENTLEMEN: The citizens of this place have organized a vigilance committee for the purpose of protecting life and property. At one of their meetings they passed a resolution instructing me as their corresponding secretary to communicate with the vigilance committee of your city, with the view of eliciting what information you may be disposed to favor us with in furtherance of the object we have in view. It is thought by keeping up a commu-

nication between the committees of the different points we might be of mutual assistance, by keeping each other advised of the movements of noted and suspicious characters. Any information, therefore, you may be so kind as to favor us with upon this subject will be both thankfully received and reciprocated by us. Our organization is quite complete, and we design to keep our doings a secret, except such as are from the nature of the case public. Therefore if you communicate with the committee of this place, please address your letters to me in my private capacity.

"I remain, gentlemen, your humble servant,

"A. M. BROCKELBANK."

Commenting on this tragedy, the Sacramento *Times and Transcript* says:

"The act for which the victim suffered was one entirely justifiable under the provocation. She had stabbed a man who had persisted in making a disturbance in her house and had greatly outraged her rights. The violent proceedings of an indignant and excited mob, led on by the enemies of the unfortunate woman, were a blot upon the history of the state. Had she committed a crime of a really heinous character, a real American would have revolted at such a course as was pursued toward this friendless and unprotected foreigner. We had hoped the story was fabricated. As it is, the perpetrators of the deed have shown themselves and their race."

This editor goes far out of his way both to distort the facts and then to draw from them false conclusions. The woman was not a friendless foreigner, nor was her act justifiable. The man she murdered offered her no violence, and she had no right to kill him. The people were right to hang her, but they were wrong to do it madly and in the heat of passion.

But bad as were the miners of Downieville in their dealings with criminals, they were not so bad as the average San Francisco jury. I say far above the action of the law in a noted female-murder case which the San Francisco courts bungled nearly twenty years later, is the course of the Downieville miners to be excused. The cases are only partly parallel. In both the slayers were women; but one killed a man because he invaded her home, and the other because he preferred his own wife before her. One was actuated by revenge, the other by jealousy; one slew her victim because he had treated her ill, the other

because he had treated her well. One killed a miner, and the miners hanged her; the other killed a lawyer, and the law let her go free.

If before this California, or the world, needed further evidence of the eccentricities of law, the trial of Laura D. Fair for the murder of A. P. Crittenden offers ample illustration.

Married at the age of sixteen to a Mr Stone, within a year she was a widow; next for six months her husband was Thomas Grayson, who freed himself by divorce; then she married William D. Fair, who in 1861 was said to have committed suicide. At Sacramento Mrs Fair kept a lodging-house for a time; afterward she appeared upon the stage at various times in Sacramento and San Francisco. With the discovery of silver in Nevada, she went to Virginia City and there kept the Tahoe House, where in September 1863 Mr Crittenden took rooms. The acquaintance there formed soon ripened into *quasi* affection.

Arrested for threatening to shoot her partner while placing the national flag upon the hotel, Mr Crittenden defended her. Subsequently she married one Snyder, but was in less than two months divorced. Before and after this marriage she was on intimate terms with Crittenden, and their intimacy was by no means private. At the time of the murder Mrs Fair was about thirty-five years of age. She was a woman of extraordinary aptitude, with sufficient acquirements to make dangerous her attractions; in the eyes of some she was even beautiful.

Among the talented and cultivated of California, none ranked higher than Mr Crittenden. The law firm Crittenden and Wilson, of which he was senior member, was prominent among the few called first in the profession. He was a graduate at West Point, nephew of John J. Crittenden, United States senator from Kentucky, and brother-in-law of Tod Robinson, supreme court reporter. He was no less gentlemanly, generous, warm-hearted, and honorable than he was

able and distinguished. He was the husband of an amiable, loving, and accomplished wife, and the father of an interesting and intelligent family. He was about fifty-eight years of age at the time of his death.

The nature of this anomalous attachment was, on the part of Mr Crittenden, a strange infatuation rather than reasonable affection. All the while he loved and respected his wife; all the while she loved and respected him; all the while he was a father to his children, protecting them, guiding them, loving them. During a part of the seven years of this unholy intimacy Mr Crittenden's family were at the east, but the family relations were never severed. While sensuous fancy obscured the path of duteous decency and made him wanton for a while, his true self was then, as ever, with the right.

In speaking thus I do not mean in any way to mitigate his wickedness or gloss his insane folly. When an amiable, intellectual, chivalrous gentleman so far forgets his duty to himself, his family, and to society as to descend into the depths and there wallow in swinish lust, tenfold more condemnation is his due than merits one less favored. Nor would I throw the blame upon his paramour. Though she played never so cunningly by her seductive charms upon his impressionable nature, it was no excuse for him; if the low, the poor, and the unfortunate may not plead temptation in mitigation of their crimes, surely the more favored of fortune should not be permitted to do so. As to relative blame, in this case as in most cases, the fault was more the man's than the woman's. That she, a notorious woman of the world, should strain her soul to win him, is less abhorrent to our sense of morality than for him, for her embrace, to descend from his high station, besmear his fair name, and cruelly crush the hearts of loving wife and children. Were she as mad with love for him as Dido for Æneas, or Cleopatra for Antony, the fall beneath her fascinations opened to his view, and to

that of his friends, a weak, gross, baneful streak in an otherwise spotless character.

Returning somewhat to reason after this long indulgence of his baser self, Mr Crittenden resolved to sever his connection with the siren, and sent for his family. The evening of their arrival, which was the 3d of November 1870, he crossed the bay upon the Oakland ferry-boat to meet them. On their return, while seated outside the cabin between his wife and daughter, Mrs Fair, closely veiled, approached him, and drawing a pistol fired, the ball penetrating the left breast. Supported by Mrs Crittenden, he dropped back in his seat and gradually sank to the floor. Dropping the pistol, a four-barrelled Sharp shooter, Mrs Fair hurried into the cabin and mingled with the other passengers. Parker Crittenden, a son, with a policeman who happened to be on board, went in search of her. They soon found her, when the son said, "That is the woman; I accuse you of murdering my father." The woman answered, "Yes, I don't deny it. I admit that I shot him; I don't deny it. He has ruined me and my child. I was looking for the clerk to give myself up. Take me. Arrest me; I am ready to go with you." Mr Crittenden lingered for three days, when he died. Mrs Fair was in apparent delirium for several days.

In due time the trial was begun. Mrs Fair, pale and weak, appeared in court arrayed in black silk and veiled, accompanied by her mother and daughter, a beautiful child of nine years. Having abundant means at her command, two expert criminal lawyers were engaged, and seated in a rocking-chair between them, and attended by her physician, the prisoner took an active interest in the proceedings. To the charge of murder the accused pleaded "Not guilty," and set up in defence insanity.

For thirty days the jury were kept together, and forty minutes after the case was submitted to them they returned with a verdict of "Guilty of murder in

the first degree." A motion for a new trial on the ground of incompetency of jurors and for other reasons was carried to the supreme court and granted. At the second trial the prisoner was acquitted on the ground of insanity and given her liberty.

Many years have now elapsed since this discharge, during which time Mrs Fair has often appeared upon the streets of San Francisco apparently no more insane than others who have not killed their man. She does not claim to have been insane long before the killing nor long after. Just how much woman's love and woman's hate, fired by alchemic passion into the metal jealousy, is sufficient to place the female mind outside itself let doctors and lawyers determine. But to discuss the question is idle in the extreme. No unbiassed mind of average intelligence for a moment doubted that this woman was guilty of the crime of murder, such as that for which the law intended those committing it should die. The people were disappointed, indignant, that the tigress should be let loose upon them; but patient and plodding as they are, they were now becoming accustomed to unquestioning obedience. Nevertheless they could but feel humiliated under the issue of the affair. Yet there is nothing uncommon about it; with numberless quibbles and technicalities interposing between crime and punishment, with a profession whose members glory in their dexterity in clearing the guilty, with judges so blindly bound to form as to be senselessly indifferent to the righteousness of a cause, and with juries composed of men picked indiscriminately from shops and warehouses, whose minds are unaccustomed to weighing evidence, and who are easily swayed by their sympathies and influenced by their prejudices, we must expect that as a rule the guilty poor only will be punished while the money of the rich buys pardon. Every appearance of this woman upon the street is a commentary on the injustice and incompetency of our judicial system.

When little Laura was in short dresses and playing

with her dolls in Mississippi, being then twelve years of age, William D. Fair and A. P. Crittenden were sitting together in the same legislature, being the first in California. One killed himself and the other she killed. Broderick, murdered duellistically by Terry, was also a member of this legislature. Lightly laughs Satan: innocence, legislation, law, and suicide; woman, law, and murder; lightly dances Satan!

CHAPTER XXXII.

THE POPULAR TRIBUNALS OF UTAH AND NEVADA.

> Mark what unvaried laws preserve each state,
> Laws wise as nature, and as fix'd as fate.
> In vain thy reason finer webs shall draw,
> Entangle justice in her net of law,
> And right, too rigid, harden into wrong,
> Still for the strong too weak, the weak too strong.
>
> *Pope.*

WERE any ever disposed to praise the Mormons, or in any wise to do them justice, then might the lovers of law and order, the opposers of the vigilance principle, give them credit for living without mobs, without any popular, or legal, or other tribunal save those simple forms which lead with the least possible time and cost to justice. Did the advocate of vigilance reform desire to praise them, he might point to the fact that here existed a society in which the regretted necessity was wanting. How they dealt with their enemies, the enemies of their religion, is another matter. We do ours all the injury we can, and that while the false prayer is on our lips that God will bless them.

In Carson Valley, near the Carson River, on the Deseret road, the bodies of six persons, supposed to have been murdered by banditti, were exhumed in the autumn of 1851; concerning which Mr James F. Tyffe thus writes to the Sacramento *Times and Transcript:*

> "My own observations, while over in the valley with the mounted men in July and August, with the information obtained from the settlers, led me to coincide with the opinion expressed by the emigrants, viz.: that there is a band of lawless and desperate men in Carson Valley, and the citizens, in petitioning the governor for a small mounted force for protection, had an eye to these gentry, although nothing at that time could be proved of sufficient importance to warrant their arrest."

Lucky Bill was a good fellow if he was a villain, and everybody liked him. He owned in 1855 one of the best farms in Carson Valley. Other fine tracts of land he owned elsewhere, besides great herds of cattle; indeed Lucky Bill for the time and place was rich. But like many another to whom wealth has brought from friends and neighbors no additional respect, as Lucky Bill's riches increased, his reputation for honesty and integrity diminished. Like many another who having achieved a reputation for superior ability or skill spoils it all by some act of insensate folly, so Lucky Bill after enjoying a long career of the most fortunate good fortune, which secured him home, family, friends, and every comfort, dissipated all by one, to him, most unlucky deed. Many of his practices were looked upon as somewhat more than sharp, among which to buy stolen cattle, and to appropriate all straggling stock upon which he could lay his hand, were among the least.

Murad the Unlucky fancied all the world against him; Saladin the Lucky grew in self-confidence through the inspiration of his name. So it was with wicked William Thorrington, for that was Lucky Bill's true name; successful in little villainies, he undertook greater ones, until he grew so bold in his unlawful acts that sad grief at last overtook him. During his palmy days, surrounded by wife, and children, and friends, there were none so happy and jovial as he. His little irregularities he regarded as good jokes, and often recounted the story of a trick played on some passing emigrant by which he had gained a wagon and its contents, or a fine horse, or several yokes of cattle, with the same apparent satisfaction a soldier tells of his shootings. And as the man kept open house and was by no means niggardly with the property he had taken from others, it was a long time before his neighbors would allow themselves to be worried by disparaging rumors concerning him. At last, however, his avarice so far acquired the ascendancy as to

lead him into the commission of a most horrible and inexcusable crime. It happened that in this year 1855 a Frenchman was herding Californian cattle at the Truckee River. Thorrington had plenty of good grazing land, and coveted the cattle, but the Frenchman wanted some compensation for them, and Lucky Bill never paid for that which could be more easily obtained by stratagem or crime. There are many lucky Bills about; lucky in that they escape hanging, as Lucky Bill Thorrington did not.

There was a friend of Thorrington's, one Edwards, who likewise wanted the cattle, and who had visited the Frenchman for the purpose of buying him out, but as they could not agree upon the price the effort was unsuccessful. Edwards often stopped at Thorrington's house; and one day during a conversation on the subject, Thorrington coolly proposed that they should kill the Frenchman and divide the spoils. Edwards consented. Again visiting the Frenchman, on some plausible pretext he decoyed him some distance from his camp, and then shot him and hid the body. A forged bill of sale made Edwards the apparent owner of everything, and the Frenchman's property was duly divided by the conspirators. Lucky as ever, thought Bill, as the time passed quietly by after this last adroitly managed affair. But the evil-minded are never permanently lucky. Even if they confine their rascalities within the limits of the law and so escape legal punishment, that for which they sell their souls, ease, gratified ambition, happiness, they never get. The devil is a shrewd paymaster, feeding forever his devotees on the passions which first brought them into his service. The Frenchman's friends in California, neither seeing nor hearing from him for so long, feared some evil had befallen him, and instituted investigations which led to the finding of the body and the discovery of the foul play attending the Frenchman's death. The settlers were aroused. Forming themselves into a committee of vigilance, they ar-

rested Thorrington, his accomplice having escaped; then electing officers and organizing a tribunal, they tried the prisoner, convicted him of murder, and sentenced him to be hanged. Unlucky Bill.

Meanwhile the Vigilance Committee earnestly desired to secure Edwards, and most villainously did they undertake its accomplishment. The man Thorrington had a son, a bright, frank, honest lad of sixteen years, who little knew how bad his father was. It was thought that he, as well as his father, knew where Edwards lay concealed, and that by promising the boy his father's life the other felon might likewise be brought to justice. It was a hazardous undertaking; Edwards was a powerful, well armed, desperate man; even settlers feared to attack him in his retreat, and the boy was not only to discover to them the criminal, but to bring him out and lead him into a trap where they could catch him. That they were a cowardly set I do not deny; but that was not the extent of their baseness. It was a desperate undertaking; Edwards was almost sure to suspect treachery, and that suspicion would cost the boy his life, for the man, already doomed, would not hesitate a moment to slay one who knew and would divulge his hiding-place. But what would not a noble, high-spirited lad do to save a father's life, a father unjustly condemned, as the boy was made to believe, and for another's crime?

At night, alone, behind the mountains which rise west of Genoa, young Thorrington went to a secluded cañon where the murderer lay concealed. Edwards did not know that Thorrington had been captured, and this fact the boy kept carefully to himself. He said his father, hotly hunted, desired to see him at a certain house to concert measures for the safety of both. From the first, Edwards seemed to feel that all was not right; whether it was the boy's too eager manner, whose father's fate one unweighed word of his might sadly mar, or whatsoever it was, there appeared to Edwards an air of unreality about it that

made him hesitate. At first he flatly refused to go; said that each could take better care of himself apart from the other; that there was nothing to be gained in being together, and much to lose. But when the boy calmed, and, made discreet beyond his years by the burden of a father's life, reasoned with him, begged him at least to see his father, assuring him that nothing ill could come of it, he finally yielded, at the same time saying to the boy if he played him false his life should surely be forfeit. Concealed in a herdsman's hut near the forks of Carson River, on a lonely rancho owned by Thorrington, the party of settlers awaited the murderer, and thither from his covert the boy conducted him. It was long after midnight when they drew near the place, Edwards advancing along cautiously with his gun raised, and other arms in readiness, watching narrowly every movement of the boy, who marched silently before him. On reaching the house he beckoned young Thorrington back, and stepping to the door listened attentively for a moment, then cautiously opened it. Darkness and death-silence were within; but this was nothing strange, as Thorrington would hardly dare to burn a light in one of his own houses, even in this lonely distant one, when justice was so hounding him. He would enter; he was not afraid. Scarcely had his foot crossed the threshold when thud! a powerful blow from an unseen hand felled him to the floor, and the vigilants were upon him. Bound by his captors, he was taken before the same tribunal that doomed to death Thorrington, and there in like manner was tried and found guilty. It was almost always a question in a new community how the first death-sentence should be carried into effect. Simple-minded well meaning settlers are loath to turn hangmen; nevertheless necessity often imposes unwelcome burdens. In this instance there was much diversity of opinion on the subject. Some were in favor of finding, if possible, a shadow of law and there laying the condemned; others thought that the promise

given to the boy should be strictly observed; others were in favor of summary and immediate execution. These last outnumbered the rest; and at Clear Creek Rancho, with a coolness and courage worthy a better cause, the two men met their fate. But what shall we say of those conscienceless men who, to accomplish their purpose, so cruelly played upon the most sacred affections? Poor boy! what teachings would so make him a child of hell as the treacheries of these self-constituted examples of good citizenship. For myself, I would almost as lief have the father's sin upon my soul as this vile meanness of the son's deceivers.

Prior to 1862 Carson Valley had for some time served as a hiding-place for stock stolen in California. Remote and practically inaccessible to sufferers by these depredations, it afforded a safe retreat. After recruiting in this valley, the stock was driven to Utah or sold to emigrants. From cattle-stealing to the robbing of emigrant trains and overland stages was but a step. Gradually the valleys round Carson City were occupied by respectable settlers, who regarded these outrages with disfavor. But so strong at that time was the impure element, that out of this action of the reformers grew numberless factions, which kept those valleys in constant turmoil, often attended by personal encounters and bloody party strifes. Though the action of the Vigilance Committee, an absolute necessity in itself, was productive of the greatest good, active in reprehending criminals, and punishing with coolness, hanging few but banishing many, yet there were there, as in California, those who opposed it, some from principle, some from petty pride, but far more from personal and selfish interest. An anti-vigilance or law and order party was formed, which carried the issue into politics, and did almost as much toward retarding the progress of settlement and clouding the prosperity of the country as the malefactors themselves.

At Lane and Johnson's rancho, Walker River, some time in the winter of 1855–6, Jim, an Indian boy raised from infancy on the place, killed Johnson because he threatened to whip him if he whipped the sheep. The boy, when he saw what he had done, mounted a horse and fled. Lane with a party started in pursuit, caught the boy in Sierra Valley, and hanged him at Carson River, near Rud Station.

At Williams Station, sixty miles below Genoa, in May 1860 there was an outbreak of the natives, provoked by gross outrages on the part of the superior race, in which four white men lost their lives. It appears that the arbitrary method of redressing injuries is not applicable to savages as to civilized men. When the red man suffers wrong he must go to his great father at Washington and there lodge his complaint, but he must not lift a finger, when attacked, in self-defence. It is a precedent too dangerous for Indian indulgence. Should one dare to do so, white men are justified in exterminating the tribe. It was somewhat so in this instance. Certain of the more humane settlers proposed to visit the outraged tribes, to demand from their chiefs the individuals outraged, and to hang them, for it was these who had committed the crime of retaliation, which privilege belonged only to desperadoes white of skin however black of heart. This surely was punishment enough for these dusky vigilants, one would think; but so did not the silver-seekers. Filled with pitchy wrath, they rose and threw themselves upon these naked defenders of their firesides, and a most unholy and unnecessary three months' war was the consequence.

Midsummer 1860 saw much mischief afloat in and around Carson City. With a scattered population of say seven hundred, there were within a period of six weeks no less than five murders reported. Add to these numberless assaults, shootings, cuttings, and beatings, and the measure of brutality is well filled. In the absence of theatricals, and of the more refined

representations of life and character, the inhabitants fell back upon their native resources and acted their own tragedies. In the absence of piano, flute, and guitar, mingling with the many-voiced harmonies of nature, the silver-toned brooks, and the concert of birds, were the pistol's gentle click and sharp report, and the shrill laughter or more passionate cries of rageful men.

So remarkable during this carnival of violence was a moment of quiet that people and the press all noticed it. Says the *Territorial Enterprise* of the 16th of June 1860:

"It is noticeable that for the last week we have not had a murder or shooting scrape in our city, while within the same period several desperate and disreputable characters have quietly slipped off to California. On Monday last Judge Cradlebaugh, United States judge for Utah, opened his court; and there are those having causality largely developed who think they can detect in this series of events the relation of cause and effect."

A singular case occurred at Carson City in June 1860. A German couple, Mr and Mrs Hesse, charged one Manuel, a Mexican, with having attempted to break into their house and take their lives. Manuel was arrested and examined before Judge Cradlebaugh, who held him to answer before the proper court. During the examination the woman swore that the Mexican had made improper proposals to her. However this may have been, it was generally believed that the woman was as bad as the man. Yet when immediately upon the close of the examination Mrs Hesse drew from under her shawl a cocked pistol, and placing it against the head of the prisoner fired, causing his instant death, neither judge, sheriff, nor the people made any attempt to arrest her, but permitted her to return to her home in peace, as if she had committed a meritorious act.

In March 1860 the ranchmen of Carson Valley met at Genoa and made pledges of mutual protection. Forebodings of disquiet seemed present in the minds of all. The unsettled titles both to mining and to

farming lands were the cause of many disputes and bloody affrays; add to this the absence of competent courts and the presence of the very worst element from California and elsewhere, and the outlook for social order was not very encouraging. If the gamblers and desperadoes would confine their shootings and cuttings to their own class no one would complain, but it is contrary to nature for beasts of the same species to prey on each other. Notwithstanding all prognostications, prosperity attended the development of the natural wealth of the territory. Most luckily Virginia City escaped for nearly three years those sweeping conflagrations which with their crushing influences had so often laid young San Francisco in ashes. Several attempts at incendiarism were discovered both before and after the great fire which occurred at Virginia City about the 1st of September 1863, but this fire, it was generally conceded, was the result of accident. At this time where four years before there was a camp amidst the sagebrush consisting of two rude stone houses, and six or eight tents and brush shanties, occupied by a score or two of straggling adventurers, there were now within an area of three miles square twenty thousand inhabitants, with houses, roads, mills, gas and water works, with schools, churches, theatres, and all the concomitants of civilization. But all this time the progress and prosperity of Washoe, as Nevada was then popularly called, was material rather than moral. Of all places on the planet, it was then the paradise of evil-doers, as California had been in her day. From the frequency of assaults, assassinations, and robberies, together with the many minor misdemeanors and suicides, one would think that Washoe Valley had become the world's moral cesspool, the receptacle of prison offal from every quarter. Likewise there assembled were multitudes of political vagrants and pettifoggers such as wait on rascality and derive their sustenance from vagabondage, whose presence in the

now more refined atmosphere of public sentiment in California was not tolerated as formerly. Bloated dissipation sunned itself upon the street-corners, and lust and lewdness flaunted their gay attire along the thoroughfares. Mingling with the whiskey-stained visages of the dominant race were the black and yellow-skinned element found in every important town upon the Pacific coast; and seasoning the mass with infernal relish was woman of every shade of influence, from distraught wives seeking release from unwelcome bonds, and grass-widows panting for new alliances, to the openly profane and gaudily decked professional. "In fact," says one, "Washoe is now to California what the latter was at one time to all the world beside—a receptacle for the vagrant, the vicious, and the unfortunate, who hasten to find in the excitements and social license incident to frontier life a condition congenial to their perturbed spirits and blasted hopes; and it may be, if indeed there is not reason to believe it will happen, that this country, this coming state of Washoe, when it shall have had the age of her sister California, will be able to boast as much public intelligence and virtue, and to make as fair an historic record as she."

The settlers in Washoe Valley during the winter of 1863–4 felt the necessity of banding and organizing for mutual protection against 'land-jumpers' or squatters on land previously claimed.

Aurora had its Citizens' Protective Union, which assumed the form of a military organization. On the 9th of February 1864, at twelve o'clock, noon, the members formed in line, marched to the county jail, and taking thence four prisoners, charged with the murder of W. R. Johnson a week previous, mounted them upon a scaffold erected in front of Armory Hall. The military, who were one with the Citizens' Protective Union, held the town, and though there was a great concourse of people, the strictest order was preserved. The doomed were then permitted to speak.

The first, named Buckley, assured his hearers that he and one of the others, Daly, alone were guilty; that McDowell and Masterson, standing there with them, were wholly innocent of the crime. Daly confirmed what Buckley had said. Johnson had killed Daly's partner, and Daly only regretted that there was but one Johnson to kill in return. Masterson simply asserted his innocence. McDowell raved, called heaven to witness his innocence, and warned the people not to do murder by taking his life. He appeared under the influence of liquor, and Daly was, if anything, worse. Just before McDowell was pinioned he bade good-by to all, and then suddenly drawing a derringer and pointing it at his breast he pulled the trigger; but it snapped without exploding, when he dashed it to the ground with a curse. Buckley was cool, brave, respectful, and temperate. In neither speech nor demeanor did he manifest the slightest fear. About half-past one the four men were placed in position, their hands tied and eyes bandaged; the signal-gun was then fired, and earth with its materiality sank beneath four disembodied souls.

It appears that this rich and famous mining district was then infested with desperadoes, who, like noxious vermin, filled the settlements and made rank the air by their presence. For nearly two years a reign of terror had existed, until with the incorporation of the town of Aurora the evil elements organized and entered politics. Filling the offices with their fellows, they had prostituted the law to their own base purposes. The numerous gambling-houses were crowded night and day, and bullets and bowie-knives were constantly opening fresh channels for the flow of blood. The quiet towns-people were almost afraid to appear upon the streets; miners would hurriedly transact their business and hasten away while they were able. Pending the decision of the courts in suits involving title, mining companies had held possession of their claims by the assistance of hired ruffians.

Life had hung upon a popular will as passionate and capricious as that of the Roman amphitheatre, where a gladiator's fate was decided by the spectators, who, if they desired he should live, held their thumbs down, and if they wished him to be slain, pointed their thumbs upward.

Upon the election of a new marshal adverse to the reign of the roughs, the latter had determined to strike a signal blow; and the murder of Johnson, an orderly and respected gentleman, whose only offence was a conscientious discharge of duty, was perpetrated. Then followed the execution of the four ruffians already mentioned.

The following reasons why Johnson was killed are given by a Carson correspondent of the Virginia City *Union:*

"It will be recollected that about a year ago a man named Sears, while passing on foot by Johnson Station, mounted a horse standing saddled at the door and rode off with him. This was at Wright's bridge, on the west fork of Walker River. The horse belonged to a neighbor of Johnson, a poor man, who deplored his loss severely. A young man named Rodgers, stopping at the station, mounted another animal and went in pursuit of the thief, and overhauling him at the Sweetwater, called on him to halt, threatening, if he did not, to fire on him. Sears, however, instead of stopping, attempted to make good his escape, when Rodgers fired and killed him. The excuse of Rodgers was that he feared Sears might shoot him if he came to close quarters, and that he would get off with the animal if he did not. The killing might be regarded in part as the result of chance, seeing that it was effected with a pistol and the parties were a long way from each other. After the killing Rodgers proceeded at once to Carson and surrendered himself to the authorities, had an examination, and was discharged. He was advised, however, to leave the place, as John Daly had threatened to kill him, Sears having been a friend or companion of the latter. Rodgers thereupon came back to Johnson's. A short time after, Daly and Jack McDowell, *alias* Three-fingered Jack, came to Johnson's and demanded to know where Rodgers was, as they wished to arrest him. Johnson refused to inform them, knowing that they would kill him if they got him in their possession. He told them, however, that he knew where Rodgers was, and that he would inform them if they came authorized with a proper warrant for his arrest. Knowing that they could not procure this, they left in a rage, and have frequently since been known to threaten Johnson for the part he took in befriending Rodgers. In order to allay suspicion, however, they let the affair rest for a whole year; nor does it appear that Johnson was apprised of their purpose or aware of the threats they had made. The day prior to the murder Johnson, it appears, went to Aurora for

the purpose of disposing of a lot of potatoes, when this gang at once set their wits to work to plan his death in a manner that would be least likely to draw suspicion on themselves. To this end one of their number, affecting a great friendship for Johnson, induced him to take a walk with him, and finally to visit several places about town, in which manner, having kept him up till a late hour, he finally decoyed him into a somewhat obscure locality, where, secreted behind a wood-pile, his companions lay in wait to despatch their unsuspecting victim. Arrived at the spot agreed on, Buckley felled Johnson by a blow over the head with a pistol. John Daley then shot him through the head, when a third one of the party, but whether McDowell, or Masterson, or some other one of the gang, is not known, cut his throat. His pockets having been rifled, he was left lying on the spot where he fell. The assassins then separated, Daly going to a saloon near by, where he shortly after told those present, with affected nonchalance, that there was a man lying in the street dead a little way off, designating the spot. These parties at once suspected that Daly was himself the murderer, or knew something of the matter, and keeping their eye on him, soon after procured his arrest. A fellow known as Italian Jim, who it seems overheard the murder planned, or was in some way privy to it, becoming alarmed, took the stage early in the morning and left in the direction of Carson. Officer Pine having been despatched, overtook the stage at Wellington's, on the West Walker, and conducted him back. Jim, in order to save himself, made a confession, revealing who were the guilty parties and the manner in which the diabolical crime was committed. Corroborating evidence having been obtained, the murder was fastened upon these men beyond any doubt, to say nothing of the confessions of Buckley and Daly."

The Esmeralda *Star* gives the following account of murderer Buckley's capture:

"Buckley fled from the town on Wednesday, the day after the murder. Parker, Gilman, and Fagan had also fled on horseback and gone, as supposed, which afterward proved to be correct, to the Adobe Meadows. Various rumors were flying through the town that Buckley was hid in some one of the many hundreds of tunnels and shafts on Last Chance Hill. A thorough search was made everywhere to find him, but it all proved to be a fruitless task. On Friday evening Sheriff Francis returned to town with Parker, Gilman, and Fagan, who were taken at the Adobe Meadows; from them information was given that a man answering the description of Buckley had passed Mackay's rancho on foot, which is about twelve miles from this place; he had stopped to get a drink of water, but when he saw Parker and his companions riding up he secreted himself, supposing them to be a party sent in pursuit of him. As soon as they had left he started for Mono Lake, and from thence was intending to make his way over the mountains the best way he could. The sheriff, hearing no further tidings of him, left on Saturday morning for the Adobe Meadows, determined if he did not find him there he would go on down to Owensville, whither he supposed he had fled. Captain Teel also went out, taking with him Mr Augustus Lake and John Burns, and went over toward

Mono Lake, having started one day ahead of Francis. They hunted diligently, riding entirely round Mono Lake on a very dark night, and a portion of the time without any food. The weather was piercing cold, and they came near freezing their ears, hands, and feet. They finally had to stop and build a fire to warm themselves by. They then mounted their horses and hunted a long time during the day for the fugitive, and then returned to town.

"On Monday morning Deputy-sheriff Teel felt confident he could be found, provided Teel had enough men to assist him; and on Monday last, at about eleven o'clock in the forenoon, he started out for Mono Lake with Messrs Lake, Shreves, Dekay, Patterson, Jackson, Staatz, and Joseph Richardson, in company. When they arrived at Mono Lake, on the northern side Captain Teel divided his forces into two parties. He sent Shreves, Jackson, Patterson, and Dekay around the east end, and took with him Richardson, Lake, and Staatz to go around the west end of the lake, and all would arrive at Le Vining's old rancho within about fifteen minutes of each other. The party that went around the east end of the lake rode very fast until they came to Rush Creek, which empties into the lake; they dashed in across the creek and came to Le Vining's old house. The door was open, and the party demanded of the men who were there if they had seen anything of Buckley, and one of them replied, 'He is not here.' The dog belonging to the house kept up a foolish barking, and seemed to be watching something in the sagebrush, and would occasionally make a dash toward it. This attracted the attention of Jackson, and he thought he saw something moving in the sagebrush, and he also thought there was a little chip or something thrown toward the dog to drive him away. He brought his gun to his shoulder and said, 'Patterson, I've got something; let us see what it is.' The rest of them brought their guns to their shoulders and covered the object also, while Patterson went on foot toward it, and when he had got within a few feet of it Buckley rose to his feet and said, 'Boys, you have got me this time,' and immediately surrendered. They brought him to the house, and in about fifteen minutes Deputy-sheriff Teel arrived with his party, they having dismounted a little way off in order to come in on foot and surround the house, expecting to take him that way.

"Remounting their horses, the party all rode back together, passing by the house of Mr Boomershine, who did not expect them until morning, and had made every preparation to greet them with a fine breakfast of wild ducks and geese, and every hospitality he could bestow, but Teel's party arrived too soon for him; but it was not lost, for Sheriff Francis and party arriving at the hour set made it all right. Teel and his party pushed on toward home, and some of their horses gave out, but as a good providence would have it, as they were trudging their way along slowly in the middle of the night a band of horses came up to them; one of the party said 'Whoa!' and they stopped and allowed four of themselves to be saddled and bridled without any difficulty, and the party thus being mounted on fresh horses they were enabled to reach home about five o'clock in the morning of Thursday with their prisoner, who was at once put into the county jail.

"Buckley informed them that when Teel and his party were out the

first time, during the night he saw their fire and could hear them talk, and when they mounted their horses again they came on so fast that they overtook him, and that he laid down in the sagebrush and came very near being stepped on by Mr Lake's horse. He had travelled around the lake several times, which is about thirty-five miles in circumference, and finding himself closely pursued, he struck out into the open wild sagebrush plain for the Adobe Meadows. On nearing this place he got a glimpse of Sheriff Francis and *posse*, and started back again over this long distance, through this wild sagebrush desert, to the alkaline waters of Mono Lake again, and wandered around its shores, hiding in the sagebrush until almost exhausted. His capture soon followed in the manner above stated, and he was brought to town, declaring that he would rather be hanged than suffer as he had for those last three or four days and nights from hunger and cold; and being worn completely out, he found that escape was impossible, and having suffered so much, quietly submitted to his fate, which explains to a great degree the cause of his cheerfulness and composure when on the scaffold."

The governor, on entering Aurora shortly afterward to inquire into this arbitrary state of affairs, saw the grim framework where the culprits had been executed with the four fatal ropes still dangling from the cross-beam, and turning to the sheriff exclaimed, "Have that devilish machinery immediately removed!" The sheriff hesitated, fearing the power behind the throne; but when the governor threatened to do it himself if he did not, the sheriff mustered the requisite courage and had the gallows taken down. The Aurora *Times* of the 4th of March shows that notwithstanding the return of peace secured by the people's organization, there were those who were restless for them to disband, knowing that to practise the arts of their profession while the watchful eye was on them was not safe. Says that journal:

"The following petition is being circulated through town for signatures. Last evening we saw one list containing over fifty names. The movement shows that there is an opposition to the Citizens' Safety Committee in our midst, to which its protracted session is giving strength. We have no desire to see Aurora declared in a state of insurrection; no wish to have troops sent here. As set forth yesterday, the effect would be most injurious to the interests of the city. If the committee would get through with their business and disband at once, the opposition now manifesting itself would fall to the ground and amount to nothing. The danger of a bloody collision between the officers of the law and the committee, which threatens hourly to come

about, is by no means a pleasant subject to contemplate. The petition reads as follows:

"*To his Excellency James W. Nye, governor of the Territory of Nevada, Carson:*

"Your petitioners, residents and citizens of Aurora, Esmeralda County, Territory of Nevada, would most respectfully represent: That there is now an armed organization in our midst, acting in open defiance of the law and constituted authorities; that this organization, without even the pretence of legal right, is continuing to arrest citizens and residents among us, and compelling them, by an overwhelming force, to leave and abandon a place where they have seen fit to come and live. These proceedings are being carried on by an armed multitude, overpowering the legally constituted officers, upon the pretext of charges that are preferred in secret against parties protesting their entire innocence, and who are denied the opportunity of defence, of confronting their accusers, or even of knowing who they are.

"Within a very few hours one of these orders to leave has been issued and enforced by this organization at the imminent peril of the safety of our town, and the lives of the officers of the law and a large number of citizens called to their aid, but rendered powerless from the fact that all the public arms are in the hands of the organization referred to.

"But now, in addition to all this, another blow is levelled at every principle of law and sentiment of justice in the arrest of our fellow-citizen John M. Prendegrast, who has come under the ban of this organization, falsely styled the People's Safety Committee. This man we have known long. He is an old resident and a large property-owner in this place, and has held and now holds upon our staff of police a position which he has ever filled with fidelity and sobriety. Within the last twenty-four hours, in the middle of the night, this man has been arrested, without warrant, without knowing for what cause, has been held in close custody, a mock investigation reported to have been held, and without the aid of counsel or friends, or the privilege of calling witnesses in his defence, he is ordered to leave the place which he has made his home, and where, by his industry, he has accumulated a handsome property, and obtained the respect, hitherto at least, of the whole community.

"We, therefore, your petitioners, earnestly urge upon your excellency to adopt some measures by which our society may be held and protected within the law, the imminent danger of a disastrous outbreak and bloodshed be avoided, and the rights of all be protected and secured.

"And your petitioners will ever pray, etc.

"*Aurora, March 3, 1864.*"

The grand jury, reporting a month later, thought differently. They say:

"Having considered the homogeneous character of our population, isolated as we are and removed from the influences of older communities, and the great difficulty and expense of procuring witnesses, which deter persons of limited means from prosecuting and bringing to justice the perpetrators of crime, and the fact that within the last three years some twenty-seven of our citizens have come to their death by the hand of violence, and the delays and

inefficiency, and we believe also the indifference of those who were the sworn guardians and ministers of the law, and the unnecessary postponement of important trials, whereby many notorious villains have gone unpunished. we are led to believe that the members of the vigilance association have been governed by a feeling of opposition to the manner in which the law has been administered rather than by any disregard of the law itself or of its officers."

Says the San Andrés *Register* of the 27th of February 1864:

"Since the organization of the Vigilance Committee at Aurora there has been a general skedaddling of murderers, gamblers, and thieves from that locality. It seems that a regular system has been adopted by this class of gentry for the murder of persons who might become obnoxious to them, from any cause, and great concert of action existed when they marked each one for slaughter. A man named Finley, who was interested in several valuable mines, was thought by them to have too good a thing, and his death resolved on; ascertaining which, he quietly sold out and left for the east. Dr Mitchel was also doomed, because he was a most important witness in the Pond and Del Norte suit, and saved his life by the greatest watchfulness. Johnson was killed for his money."

The Stockton *Independent*, noticing the refusal of the grand jury of Lincoln County, Nevada, to indict Barney Hood for killing Thomas Coleman at Pioche, gives the following history of some ruffians with whom Coleman was associated:

"In 1867 Edward Lloyd shot and killed a teamster named Thornton at Oroville. After two or three trials he was sentenced to ten years in the state-prison, but through some decision of the supreme court finally escaped. He and his two brothers, George and Thomas Lloyd, kept the Mountaineer saloon in Sacramento in 1861-2. In the last named year, if we are not mistaken, the great fight occurred at the foot of K street between the steamboat runners. Both drew pistols and commenced firing simultaneously. Lloyd was reënforced by his brother George, his cousin Patsey Callahan, and McAlpine, who has since earned a wide reputation as a prize-fighter. Coleman was supported by Joe McGee and F. N. Smith. The Lloyd party was armed with but one pistol and one knife. McGee stood a short distance off and fired with a revolver, wounding George Lloyd in the right shoulder and McAlpine in the wrist. In the heat of the conflict Smith approached Edward Lloyd from the rear and shot him, killing him instantly. Smith remained in the county jail about six months, when the grand jury ignored the charge against him. George Lloyd had by that time recovered. Within fifteen minutes of the time Smith was discharged, George Lloyd shot and killed him, inflicting four bullet-wounds. Lloyd was tried several times, and finally acquitted. A year or two later, Patsey Callahan was stabbed and killed at the Bank

Exchange in Sacramento by Thomas Sherman. George Lloyd went to Nevada and Thomas Lloyd to Idaho. While in Sacramento George Lloyd had a rough-and-tumble fight with Johnny Daly, which was the subject of considerable talk among their friends. The silver excitement took over to the vicinity of Aurora, George Lloyd, Johnny Daly, Jimmy Sears, and the other Thomas Coleman, who was a brother-in-law of the Lloyd's, but who had nothing to do with the steamboat business. Sears soon afterward, while travelling on foot on the Aurora road, jumped on a horse in front of Johnson's hotel and rode off. He was pursued, shot, and killed.

"A short time afterward Daly and Coleman engaged in a bar-room fight with George Lloyd concerning mining claims, the respective parties having been retained as fighters by the conflicting claimants. Several shots were fired and Lloyd was killed. It was generally believed that the fatal shot was fired by his brother-in-law Coleman. Soon after this occurrence Johnson the hotel-keeper visited Aurora and was murdered in the night. The proof was conclusive that he had been murdered in revenge for the killing of Sears. A vigilance committee previously organized arrested, tried, convicted, and hanged Daly and three others for the Johnson murder. The Thomas Coleman who was recently shot and killed at Pioche by Barney Lloyd is, we believe, the brother-in-law of the Lloyds.

"One evening, perhaps in 1863, a man whose name we have forgotten, while in a saloon in Carson was shot and killed. The assassin fired through a window with a shot-gun and escaped. Suspicion rested on McGee. Precisely a year afterward, at the same hour in the evening, McGee while in the same saloon was shot through the same window and killed. The same gun was found on the ground, having been used as on the first occasion. The assassin also for a time escaped. Thomas Lloyd returned from Idaho to San Francisco. About eighteen months ago he shot and killed a man named Barry at Seventh and Stevenson streets, and is now serving out a ten years' term in the state-prison for the offence. We understand the Coleman who fought the duel with Mulligan to be the steamboat runner, who still resides in San Francisco. Mulligan, while under the influence of delirium tremens at the St Francis Hotel in San Francisco, resisted the efforts of the police to arrest him. An immense crowd gathered around the hotel. Mulligan fired and killed two men in the crowd, and was himself shot and killed by a policeman. This is indeed a dark chapter in the criminal record of the coast. The only instance of punishment by law, in connection with this entire list of crimes, is that of Thomas Lloyd."

About three weeks after the execution of the murderers of Johnson, Aurora was agitated by the threats of Masterson's brother, who on hearing of the hanging came over from Carson City to settle the rogue's estate. Little attention was paid him until he began to utter menaces against those who had slain his brother. Hearing these, the Union deter-

mined upon action. The signal-gun was fired; the sheriff offered Masterson the protection of the jail, of which hospitality he eagerly availed himself. In less than twenty minutes after the signal-shot four companies were under arms. The armed guard which the sheriff had stationed to keep the prison were insufficient for its protection. Masterson then agreed to quit the place instantly if permission should be given him. This was agreed to by the military, who escorted him beyond the precincts of the town.

Between the ranchmen and the land-jumpers on the Truckee River on the night of the 17th of February 1864 there was a bloody fight, in which one Ferguson was shot to death and two wounded. The ranchmen then associated and declared war.

A man by the name of Doyle had been killed by one Lynn, who for the offence was confined at Dayton, Nevada, for trial. About three o'clock on the morning of the 10th of August 1864 a *posse* of the Dayton Vigilance Committee entered the apartments of the sheriff, whom they bound and gagged, and taking the keys they opened the jail, took thence Lynn, who begged piteously for his life amidst loud shrieks for assistance, and hanged him in the jail-yard. There was little excitement attending the execution, few knowing of it except those present until some time after all was over.

Near the sink of the Carson on the night of the 31st of October 1864 one Edward Hale was shot by a negro, who was soon afterward caught and hanged by the people.

Besides the several committees of vigilance organized at different times and places in Nevada, there were many impromptu tribunals for special cases, as well as mobs and Indian-fighting companies. An association was likewise formed under the denomination of "The Miners' League," which was not always temperate in its counsel nor beneficial to society in its operations. There is a vast difference in the asso-

ciating of the best element of a community, actuated by no personal ambition and possessing no political aspirations, banding for the support of social morality and good order, for the upholding of law and government in so far as law and government can sustain themselves, but never harboring designs of their overthrow—there is a vast difference, I say, between such organization and the leagues of disaffected laborers, secret political societies, and the coalescing of lawless desperation.

James W. Nye, governor, and superintendent of Indian affairs of Nevada, writes from Carson City September 25, 1864, to J. P. Usher, secretary of the interior at Washington, informing him that "for the last five weeks this territory has been in considerable turmoil and commotion, owing to apprehended raids from avowed disloyalists from California and this territory on the principal towns of the territory on the one hand, and riotous and unlawful proceedings of persons composing what is here called the Miners' League on the other. On two occasions I found it necessary to order out the military from Fort Churchill to the towns of Virginia and Carson, to be in readiness to suppress or prevent these anticipated troubles. A force of nearly three hundred cavalry is now on duty at Virginia, ready to meet any outbreak of the rioters. I have also had to form companies of home-guards in every town in the territory, and arm them to suppress and subdue unlawful violence."

And again five years later we read in the Sacramento *Bee* of the 30th of September 1869:

"Yesterday afternoon about three hundred and fifty members of the Miners' Union at Gold Hill, Nevada, made a raid upon the Chinese laborers on the Virginia and Truckee Railroad. They drove the Chinamen away from their work, but did not attempt any personal violence. The sheriff of the county and officers were present, and contented themselves with reading the riot act and watching the exploits of the *guerillas*."

In April 1867, following the Virginia *Trespass*, matters stood thus:

"The fracas in the Highbridge saloon, Belmont, on the 18th has been

the means of impelling the people of that place to the resort which new communities so commonly adopt for security from ruffianism. A vigilance committee has been organized and is now making efforts to overtake those who took part in the outrage which resulted in the death of Bodrow and afterward of Dignen. A jail has been constructed, and two men who participated in the abuse of a mining superintendent on the night of the 17th have been incarcerated, Russell and Bender. Eight mounted men, a patrol appointed by the Committee, are traversing the surrounding country in quest of others who were engaged in the riot. Great excitement was occasioned by the imprisonment of Russell and Bender. Armed men were seen on every hand, some to resist the rumored hanging, others with the determination to stand by the Committee."

One Vail, arrested for the murder of his partner, Knox, while in custody of the sheriff of Lincoln County in July 1867 on the way to Hiko, was seized by a company of men, tried before a jury of twelve, condemned, and in an hour and a half thereafter hanged. Of this affair the same journal of July 19th says:

"We learn from Mr Walsh, who arrived here from Belmont last evening, that the mail-carrier between Belmont and Pahranagat arrived at the former place on Monday evening, bringing the news of the hanging by the people on the previous Thursday of S. B. Vail, the alleged murderer of Robert W. Knox. Vail, it will be recollected, was arrested a few miles from Austin by our city marshal, W. H. Knerr, on the 10th of June, and delivered to the custody of Sheriff Matthews of Lincoln County. The prisoner was taken to Belmont, and while there steps were taken to prevent his being carried to Lincoln County, but he was finally delivered to Sheriff Matthews, who succeeded in taking him to where the foul murder was committed.

"Vail was taken from the sheriff at Logan Springs and carried to Hiko, ten miles distant, the county seat of Lincoln, where it appears they gave him a trial after the manner of Judge Lynch. He refused to make any confession of the murder of Knox, asserting that he believed he was in Prescott, Arizona. While he persistently denied the murder, he confessed that he was a horse-thief. He was condemned to be hanged. A piece of timber was run from the upper window of a building, to which a rope was fastened; a wagon containing Vail was driven alongside the house; the rope was placed around his neck, and at a signal the wagon was drawn away, and in a few minutes the career of a bad man ended."

In every spot of the Pacific States where precious metals have been found, thither have flocked like vultures desperate characters, who stirred up strife, excited turmoil, and caused the honest and industrious

much anxiety. And this was continued, gradually growing worse, until they were driven out by the order-loving element; for the right-minded of every permanent community are stronger than the evil-minded. The White Pine district proved no exception to this rule.

During the winter of 1868–9 the roughs and outlaws directed their attention chiefly to driving from their ground those who held possession of mining claims. So unbearable became the evil that the citizens of Hamilton and Treasure City were obliged to form protective associations.

It was exceedingly difficult for the miners to submit to the rulings of courts which wrought injustice to any of their number. They loved equity more than law. The people of Treasure Hill, White Pine, had not long been favored with a district judge before they placed their will in determined opposition to his. One Stanton in August or September 1869 sued and obtained judgment for certain land which had been bought and improved by innocent third parties. Of this land a Mr Fulton had bought a piece and built a house upon it, at a cost, for land and building, of some fifteen hundred dollars. Fulton was willing Stanton should have the land if it belonged to him, but he thought the house by rights belonged to himself. And so thought his neighbors; for one night forty of them proceeded in a body to the place, rolled the house across the street, and placed it upon ground which did not belong to Stanton. The latter was present with friends; shots were exchanged, but the Fulton party was the stronger.

On the Egan and White Pine road robberies became so frequent that the inhabitants of that vicinity on the 27th of September 1869 called a meeting and organized the "Egan Cañon Property Protection Society," by which means they hoped to curb the growing evil. J. Riley and J. O'Dougherty in behalf of the people of Egan submitted the following reso-

lutions and rules for the government of the society, which were adopted:

"WHEREAS, The discovery of rich mines of silver in the White Pine district has attracted to eastern Nevada a large population, and among them, unfortunately, many of the reckless and criminal adventurers who float habitually from one scene of mining excitement to another, and who, when they find their wild hopes of sudden acquisition disappointed, betake to theft, robbery, and murder as a means of support; and whereas, from the exposed position of many districts and the sparseness of settlements upon the principal highways in this county, there exist here peculiar facilities for the perpetration of robberies and the escape of robbers, while the supineness and inefficiency of the executive officers of the county are such as to give, practically, full license to crime; therefore,

"*Resolved*, That the condition of this county calls imperatively for a defensive organization of its citizens for the protection of life and property, and for the prompt adoption of all proper means to excite, and if necessary to compel, the executive officials to an active, efficient, rigid, and persevering discharge of their duties.

"*Resolved*, That as the first step to the prevention and punishment of crime, it is necessary that the law-loving and law-abiding citizens shall manifest, by such organization as ours, their own interest and determination in regard to the arrest and conviction of criminals, these organizations to correspond and coöperate for the accomplishment of these objects; and that until the state of things which now exists shall be corrected, all honest men should unite, without respect of party, to sustain and applaud those officers who honestly and satisfactorily perform their duties; and to defeat the reelection, and when possible effect the removal, of those who are indifferent, corrupt, or inefficient.

"RULES AND REGULATIONS OF THE SOCIETY.

"First, This society will be called 'The Egan Cañon Property Protection Society.' It will be established for the mutual protection of the person and property of each individual member of the community against the outrages of highway robbers, horse and cattle thieves, and dishonest persons. Second, Each member on joining the society will pledge himself to abide by its rules and perform what they demand of him. Third, The officers of the society will consist of a president, vice-president, secretary, and treasurer. These will constitute an executive committee. Fourth, It will be the duty of each member to give prompt information to the executive committee, or to the president or secretary thereof, whenever he hears of the commission of an outrage in the district, or when he has reason to believe that unknown persons are prowling about under suspicious circumstance. Fifth, It will be the duty of the executive committee, the president or vice-president thereof, to place themselves in immediate communication with the local authorities, and in coöperation with, or acting under them, to use every exertion and employ every means to bring the perpetrator of such outrages, or such suspected persons, to justice. Sixth, When such information shall have been thus properly

brought before the constituted authorities, it will be the duty of the committee to choose by ballot a certain number of members from the society, who on their part will be bound by their pledge to accompany the law officer or officers, and to cooperate with them in every step that may be found requisite to detect or apprehend such suspected persons. Seventh, If any property shall be recovered through the exertions of the society, the owners shall be required to refund to the society a certain sum, proportionate to the value of the property, toward defraying the expense incurred in the recovery of such property. Eighth, No person shall be a member of the society who has not some legitimate business or calling in the district; and when admitted to membership no cause other than sickness or absence shall exempt any person from any of the duties of membership. Ninth, There shall be no admission fees, but to pay the expenses of pursuing and prosecuting offenders the executive committee shall levy an assessment on the members when occasion shall arise. There shall be no special days of meeting of the society, but the members will be convened by the president, or any member of the executive committee acting for him, when their services shall be required. No habitual drunkard or person of bad moral habits shall be a member of the society."

Upon the telegraph poles of Promontory one Sunday morning in November 1869 there appeared posted a notice, signed by the Committee of Vigilance, warning all loafers, pimps, gamblers, pettifoggers, thieves, and cutthroats to quit the town within twenty-four hours, or to prepare to be hanged each upon a telegraph pole. The suffering towns-people had been obliged to resort to this means to rid themselves of a class who were sapping society of its prosperity. Having just organized as a permanent committee of vigilance, they were determined to cleanse their town of its moral impurities or decorate with a swinging carcass every telegraph pole within the town limits. Neither trees nor lumber were plentiful in that vicinity. The many who availed themselves of this permission, men who suddenly discovered urgent business calling them to the east or to the west along the road, some of them unsuspected hitherto of carrying guilty consciences, it was wonderful to see. A committee of three was appointed by the Vigilance Committee, charged with power to convene the entire body at any moment. The time having expired, the Committee next day visited every saloon and all disreputable houses, and warned the proprietors against

harboring any suspicious persons, under penalty of themselves being driven from town.

The following incident is one of cold-blooded and unprovoked murder: Arthur Perkins Hefferman in March 1871 approached one William Smith, who was standing by a cigar store in Virginia City, and drawing his six-shooter asked him what he wanted. Smith replied, "I don't know that I want anything." "How do you want it?" was Hefferman's rejoinder, at the same time firing his revolver, the bullet penetrating Smith's left eye and coming out at the top of his head. "I fetched him!" Hefferman exultingly exclaimed as Smith fell. Then suddenly, as if the possible consequence of the deed had all at once flashed upon him, he added, "My God! I didn't mean it!" Upon his arrest he said to the officer, "I give myself up to you; I have killed a man; it was an accident; I didn't mean to kill him." He was taken to jail. On the morning of March 25th, at one o'clock, a delegation of the Virginia Vigilance Committee numbering eighty armed men proceeded to the jail, and entering the room of the sheriff, demanded the key to Hefferman's cell. This was refused, and the vigilants forced open the door. Hefferman was led out with the avenging hemp round his neck, taken to the Ophir mine, and hanged from a beam that extended from one of the buildings. The sheriff was exonerated, and the public were generally satisfied with the night's work.

This man was born on board the ship *Perkins*, which sailed from New York the 26th of September 1846, carrying a portion of that scaly crew, the New York Volunteers. The captain's name was Arthur; so this villainous spawn of villainous antecedents was dubbed Arthur Perkins, and his origin and end were alike bad. His father was corporal of Company F and his mother a sister of the notorious robber Jack Powers, who was also a member of the same Company F. It is said that during the year 1871 fifteen persons were driven from Virginia and Gold Hill by the Vigilance Committee.

George B. Kirk, a native of Fayette County, Missouri, came to California at an early day. He was a desperate character, having killed his uncle before he left home. For five years he was in the Nevada state-prison on a charge of burglary; during an outbreak the warden, Alexander Hunter, was wounded, and Kirk was believed to have shot him. Afterward he lived at Virginia City, where his cabin was head-quarters for roughs and vagabonds; he seemed to have no legitimate business. At the time of the hanging of Hefferman by the Vigilance Committee, he, with several other desperadoes, was warned to leave; he did so, but returned. Warned once again, he left, and again returned, threatening to get even with the vigilants. This was his last visit, for on the evening of July 13, 1881, he insulted one, a stranger to him, but who happened to be a member of the Vigilance Committee. The vigilant notified his associates. Kirk was followed to a saloon, where he was captured; he was then taken quietly to a trestle-work at the Sierra Nevada mine and hanged. Beyond their little circle nothing was known of it until it was all over.

During the summer of 1871 crime became rampant at Pioche, Nevada, so that it was deemed necessary to organize a committee of safety. The committee numbered about three hundred, and Henry rifles were obtained with which to arm themselves.

Indians as well as Chinamen followed closely on the heels of the audacious white man in the arbitrary extermination of the wicked. Buffalo Bill was a bad Piute. He drank to drunkenness; then with a pistol he shot another Piute, so that he died. Thus he was becoming quite civilized; so also were his brother Piutes then fringing Virginia City, for on the 31st day of December 1872 they organized among themselves a tawny, reptile-eating committee of vigilance, and seizing Buffalo Bill they killed him very dead as boys kill snakes.

About eleven o'clock on the night of June 3, 1874,

thirty men entered the jail at Belmont, Nevada, bound the sheriff and his deputy, and hanged two prisoners named Walker and McIntyre. Accounts of organizations and executions might be greatly multiplied in this narrative, but further illustration of the workings of the institution in this vicinity appears to me unnecessary.

At Belmont, Nevada, in 1874 there was a popular demonstration, of which the Belmont *Courier* of the 6th of June gives the particulars:

"Between twelve and two o'clock on Thursday morning, Jack Walker and Charles McIntyre were hanged in the county jail, with a slip of paper pinned on each of their backs bearing the inscription '301.' Before the execution took place Sheriff Caldwell and P. C. Turner, his deputy, each occupying separate rooms in the court-house, were securely tied, hands and feet, and guarded for a time, perhaps ten minutes, after which they were left in that condition, unable to move. Shortly afterward, however, night-watchman Gates, noticing movements that aroused his suspicion, repaired to the court-house, and found the light usually kept burning in the court-room turned down. He then went to the doors of the sheriff and deputy, and after some little difficulty succeeded in gaining access, and found the two officers securely tied and destitute of arms. Gates released them, and the three went below and found Walker and McIntyre, each suspended, with ropes round their necks, to the upper floor. McIntyre had been tried on May 6th for drawing a deadly weapon, not in self-defence, for which the justice at the time imposed a fine of two hundred dollars, or imprisonment at the rate of two dollars per day until the exhausting of the amount aforesaid. Walker had been taken into custody for the shooting of H. H. Sutherland on the morning of the 6th of May, for which offence he was held to appear before the next grand jury. The two victims, Walker and McIntyre, escaped from jail during Monday night, and were captured and lodged in jail again on Wednesday. From all accounts these two had taken the lives of many men in different parts of the country, and had the reputation of being desperate characters. Between the time of their commitment and hanging it appears they had made threats to take life and destroy property. Once they were released from custody, and from the peculiar framing of the present jury law their chances for acquittal were quite probable. It is not our purpose to justify the hanging of these men, but in all reasonable probability to avoid their threats being carried out, together with the certain knowledge of their previous history, they were thus summarily disposed of. We trust that all other desperadoes will take warning, if there are any in our midst, and profit by the example made."

Two natives, Tempiute Bill and his brother, were arrested by the Shoshones in January 1875 and

brought to Belmont. There the sheriff took them, and while on the way to Hiko one of them, Bill's brother, broke away and escaped. Bill was then taken from the sheriff by the people and conducted to Hiko. He confessed to many murders, one of which implicated a savage called Moquitch, who was sent for, and the two hanged. This was not the worst of it; this is not the disgraceful part of the story. Full of rage and vile drink, after the hanging of the two aboriginals the people of Hiko went to a camp near by and massacred seven natives, some of whom were guilty and some innocent. This was most dastardly; and had the diabolical deed been perpetrated by savages upon whites, all the world would have lifted its hands in horror, and a regiment of soldiers would have been sent by government to annihilate the nation to which the murderers belonged. How fortunate to be born white!

At Cherry Creek, Nevada, in September 1875 a native criminal was taken from the sheriff and executed by the people.

At break of day the 17th of December 1875, as two men were passing Carson cemetery they saw swinging from the gate frame the figure of a man. Returning horrified to town, they told what they had seen, and soon crowds were pouring along the road in that direction. It was ascertained the body was that of a noted desperado named Samuel Burt. The ominous number "601" pinned to the breast showed that the dread Vigilance Committee had been abroad the night before. Robbery and incendiarism had been prevalent of late, and in all large villainies Burt was chief. He had been frequently ordered to leave town, but had refused to go. Those who hanged him were disguised. They took him from the Emory engine-house, where he had been accustomed to sleep for some time past. He made no disturbance when awakened by the fearful summons, "Get up quickly and dress yourself; you are wanted." He seemed to

realize all in an instant, and did as he was bade in all things, quietly and quickly. It was a good desperado at the last.

About the 1st of July, at Ward, Nevada, a native having attempted violence upon a white girl eleven years of age, the citizens told his countrymen they must attend to it, whereupon they took their erring brother and hanged him; and the little white girl was pacified.

As late as midsummer of this year, 1877, both at Winnemucca and Virginia, as well as in other parts of Nevada, the Vigilance Committee was still in active existence. At Winnemucca early one morning in July a robust ruffianly figure was found suspended from the limb of a dead tree in the burnt district with the cabalistic "601" pinned to his back. Between the good and the bad there is eternal antagonism.

CHAPTER XXXIII.

THE POPULAR TRIBUNALS OF OREGON, WASHINGTON, BRITISH COLUMBIA, AND ALASKA.

Justice, justice: woe betides us everywhere when, for this reason or for that, we fail to do justice! No beneficence, benevolence, or other virtuous contribution will make good the want. And in what a rate of terrible geometrical progression, far beyond our poor computation, any act of injustice once done by us grows; rooting itself ever anew, spreading ever anew, like a banyan-tree, blasting all life under it, for it is a poisonous tree! There is but one thing needed for the world; but that one is indispensable. Justice, justice! in the name of heaven give us justice, and we live; give us only counterfeits of it, or succedanea for it, and we die!

Carlyle.

Passing northward over the forty-second parallel, we encounter in some localities new phases in judicial affairs. First at Fort George, Astoria, were the Pacific Fur Company; then for a time the Northwest Company were master in all this region; afterward the Hudson's Bay Company; and finally American missionaries and settlers.

It was customary for the fur companies to arrest and try offenders. Sometimes a native criminal would be handed over to his tribe for trial; or a jury of men about the fort would be formed; or a mixed jury of white men, half-breeds, and Indians. Often of their own accord the chiefs would bring to the white men for trial an offending member of their tribe; or the parties, to a quarrel would leave its settlement to the white men, confident of their integrity. In all these tribunals Indian testimony was taken even against white men. This would scarcely be regarded with favor in the United States; and yet if within all our border there could be found red men or copper-colored who could surpass in lying many of our white wit-

nesses, particularly those about the Indian agencies, who are most frequently called upon to testify against the Indians, they were indeed adepts in the art. Sir George Simpson, as head of the Hudson's Bay Company, in crossing the continent in 1828, and at other times as he went from place to place, would hear and decide cases while *en route*.

In May 1813 the Pacific Fur Company was robbed of a silver goblet at Lewis River. The chief of the tribe promised to look for the offender, but did not. The next night the fellow was caught stealing. A temporary gallows was erected, and the Indian was hanged before the tribe, who agreed to his execution, as the culprit was a kind of outlaw among them.

A half-witted American named Judge was found with his skull cleft, near Fort George, in May 1815. Native chiefs were summoned and a reward offered. A Clatsop pointed out the murderers—there were two of them—at Killamook Village, and they were captured and brought to Fort George. A jury was formed of gentlemen of the fort, and equal numbers of the principal native men and women. Witnesses showed that the deed was in revenge for a wound given to an Indian robber some two years before by one of the party to which Judge belonged, the natives wrongly blaming him. The Indian women exhibited more acuteness in cross-examination than the chiefs. The prisoners were found guilty and condemned to be shot. They objected strongly to being tied and to having the cap drawn over their eyes, but they were compelled to submit. Twenty-four men were selected by ballot to shoot, but the culprits were merely wounded at the first fire, and had to receive the *coup de grace*. The relatives took away the bodies lamenting; and the promised rewards were paid the natives.

The unity, energy, and wealth of the Hudson's Bay Company gave them great influence with the government, and often procured immunity from crimes committed by their officials and servants.

Peter Burnett writes from Tualatin November 2, 1844, to the Indian agent for Oregon that he had "attended the last term of the circuit courts in most of the counties, and found great respect shown to judicial authority everywhere, and did not see a solitary drunken juryman, or witness, or spectator."

So few were the serious litigations in Oregon that when the first circuit courts were held in the four counties only one case of assault appeared, the punishment being a fine of twenty-five dollars. The highest charge brought before an Oregon judge or justice up to 1845 was for fighting a duel.

Jacob, a Russian renegade who had mutinied on board the schooner *Colonel Allan*, was left a prisoner at Fort George, but escaped and joined the natives to rob the white men and attack the fort. Tired of his pranks, and afraid of his organizing more serious movements, forty of the Fort George men surprised the native village, carried off Jacob, and sent him in chains to Honolulu.

Mr Hubbard, of Champoeg, Marion County, had a native wife. A neighbor threatened to take her, and entering through Hubbard's cabin window for the purpose, the latter shot him. Rev. Mr Leslie presided as judge, and the jury returned a verdict of justifiable homicide. Petitions circulated at this time stated that theft, murder, and infanticide were alarmingly on the increase.

Some time in December 1853 an Irishman in the service of General Adair, collector of customs at Astoria, Oregon, robbed the safe of three thousand dollars. The collector had left his office for a few moments, with the key in the safe; the Irishman was there at the time, and there could be no doubt that he took the money. Accused of the theft, however, Pat stoutly denied it. As there were no witnesses in this instance, he regarded a lie well adhered to as much better than the truth. What should be done? The law could not make him disgorge, for first the offence

must be proved, though there was, perhaps, circumstantial evidence sufficient for that; but then Pat could afford to lie in prison some time for three thousand dollars. Butler Anderson was there at the time, and he told the collector that he would manage it. Taking with him a number of assistants, he conducted the Irishman a short distance into the woods, tied a rope round his neck and threw one end of it over a limb, dug a grave, drew over the culprit's face a black cap, and then told him to say his prayers, if so great a thief as he without a priest could pray. Pat was sceptical as to the sincerity of their intentions, and when Anderson intimated that information as to the whereabouts of the money might stay proceedings, Pat felt sure that he was safe, and protested his innocence more loudly than ever.

"The thing must be done," said Anderson. "Hoist away, boys!" And up went the Irishman.

"Stop!" cried Anderson; "let him down a moment."

When Pat could balance himself upon his feet Anderson asked him, "Are you sure you cannot tell us where the money is?"

"Oh Jasus!" cried Pat; "oh holy mither of God! I'm sthrangled! As I hope to be saved, I know nothing of the money. Oh! plase, Mr Anderson, let me go!"

"No use," said Anderson as if talking to himself; "I thought perhaps he might like to live. String him up again."

Again Pat's feet left the firm earth; again that horrible sensation; thick blackness, phosphorescent light, the hot blood rushing in torrents to the brain, an uncertainty as to whether the neck was yet unbroken—all this as the Hibernian went up and down again. The joke was becoming serious to the sufferer. Even if they did not mean it, the fun was not pleasant; and then they might hold him up a moment too long. Already he had thought much of his mother and sister, whom he had hoped to make rich in the sweet Emerald Isle; already his neck and head felt very queer, and so

hot, and heavy, and sore. And then his soul: to go hence a thief unshriven, what would become of him? He would not risk it a third time for three thousand dollars, much as he coveted the money. So he told Anderson where he had hidden it, and was released from the hempen remedy.

Prior to 1852 justices of the peace elected by the people held almost unlimited jurisdiction, there being in most localities no available court of appeal. Before January of this year there was no county organization south of the Calapooya Mountains; and although in the summer of 1852 rich gold-diggings were discovered on Jackson Creek where now stands Jacksonville, no higher court than the lowest was held in that region until the year following.

The miners of Oregon were in no wise behind those of California in brightness of intellect and resource in cases of emergency. The offer of free lands to actual settlers by the government in 1850 drew thither from the western border and from the New England states a hardy and independent population, more staid and substantial, if anything, than the mercurial gold-hunter of California. These, on the discovery of gold on Jackson Creek, flocked to the new mines to fill their pockets.

A justice of the peace had been elected for this district just before the discovery of gold. Rogers was his name—a lean, crabbed, sinister-eyed man, with neither discernment nor honesty. He did well enough, however, when there was no business to be brought before him, and for a time after the congregating of the miners he passed muster, that is to say, until he was needed and known.

A case arose in the autumn of 1852 which brought judicial affairs at Jacksonville to a crisis. Two miners, Sprenger and Sims, appeared before Rogers in a suit for the settlement of partnership in a mining claim. It appears that while Sims was absent at Portland

purchasing supplies with partnership funds, Sprenger met with an accident while working the claim, which laid him up. When Sims returned, finding his partner a helpless cripple, and likely to be a burden upon him, he arbitrarily dissolved the partnership and appropriated the property to himself; and lest his partner should recover his rights in court, he won to his way of thinking the only magistrate in the district, and so felt secure. Sprenger summoned to his aid a fellow-miner named Kinney, who presented the case before Justice Rogers fairly and with no little skill. Law and equity were both in favor of his client, and this was made plain by Kinney; but the eyes of justice were dimmed by Sims' gold-dust scattered before them, so that they could not see. Sprenger lost his case, and a new trial was denied him; the poor cripple in his distress talked to his friend Prim about it, who being somewhat of a lawyer, consulted several times with Kinney. Prim, though a miner now, was afterward chief-justice of Oregon.

"It is all wrong," said Kinney on one of these occasions; "I believe in simple straightforwardness in legal matters, and in the court of original jurisdiction being likewise the court of ultimate appeal, but this open and barefaced rascality shakes my faith in theories."

"There is no such thing on this earth as ultimate appeal," replied Prim; "that is found alone in the beyond. The farthest back we can go is to the source of law, the omnipresent power of the people. That power is here, as indeed it is in every society, the central idea and cohesive force."

"All right," exclaimed Kinney, half in jest and half in earnest, "let us appeal to that power in this case."

"We can do it—we will do it!" replied Prim, waxing warm. "Who made this scoundrel judge? The people; and if the people possess the power to appoint one man to hang another, may they not make a court high enough to hang, if need be, another court which they have made? I tell you, Kinney, within twenty-

four hours I will have here such a court of appeal as will teach Oregon and the world a lesson throughout all ages—a lesson inscribed in the beginning upon the hearts of men, but which is just now beginning to be read, that ever before all statutes and constitutions is the unwritten law of man."

This was Saturday. The morrow would be the day of all others for the organization of the novel tribunal, the court which was to try a court. Sprenger was notified by his two friends of the course determined upon, and directed to summon the people. This was done by posting on a tree standing in the main street of Jacksonville the following notice:

"Whereas, the justice of the peace for the town of Jacksonville has rendered against me an unjust decision, I hereby give notice that on Sunday morning next at eleven o'clock, at this place, I shall carry an appeal to the supreme court."

Likewise during the afternoon of Saturday Sprenger took occasion to visit the several claims and camps in the vicinity, requesting the attendance of all on the following morning to decide a matter of right and wrong in which he was involved.

Sprenger's case was well known to the miners, and the present appeal of the unfortunate cripple was by no means in vain. Long before the appointed hour men were seen coming in from every direction, and soon a vast crowd had gathered round the tribunal tree. Approaching the notice, they read it, then looked around in wonderment. More came, until over a thousand had gathered there. Presently Sprenger made his appearance.

"Where is your supreme court?" asked one of Sprenger, beginning to think the affair a joke.

"There!" said Sprenger, waving his hand before the assembled host, "there is the supreme court of Jacksonville."

Kinney and Prim then came forward and confirmed what Sprenger had said. They were honest, manly

men, these two miners, educated and thoughtful, and they were now working for no pecuniary fee. In them the miners had the utmost faith, and united they could carry almost any point they pleased, for they pleased to do nothing but the right.

"Yes, gentlemen," said Prim, as he called the meeting to order, "you are the supreme court. You have here in Jacksonville law, but not equity. Seated in the judicial chair which you have made, in the fair semblance of truth you have cheating and corruption. If after seeing what we shall place before you this day, with all substantial proof, your magistrate remains in office another hour, you are not the men I take you to be."

Kinney then proceeded to organize of those present a tribunal of justice. Hayden, a genuine Connecticut Yankee, subsequently for twenty years recorder in one of the chief towns of southern Oregon, was called to preside; a sheriff and a clerk were likewise chosen, and the people were ready for business.

First Rogers was ordered to appear and answer to the charge of malefeasance in office. This he refused to do, not recognizing the authority summoning him. Very well; for the present they would get along without him. He might be glad to plead to that tribunal before the day was past. Sims answered immediately the first call; he knew too well the temper of his fellow-miners to attempt to trifle with them. He felt the power of the popular tribunal, though the stubborn Rogers affected not to realize its weight.

A jury of twelve was selected; witnesses were subpœnaed, and the case of Sprenger regularly reopened. Sims, with his henchman Jacobs, a promising young lawyer from Michigan, and subsequently chief-justice of Washington, fought the evidence inch by inch, as if their lives depended upon the issue. In that assemblage they well knew that law and legal verbiage had little weight; they must come down to the

principles of simple truth and justice, in which commodities, unfortunately, their side was lacking.

The evidence over, an eloquent appeal on either side, and the case was submitted to the jury. In his charge the president instructed the twelve that they might divest the subject of the legal technicalities in which the counsel for the defence had attempted to cloud it, and judge it purely upon its merits, being governed only by the sacred principles of right.

There was not the slightest difficulty in finding a verdict for Sprenger; the trouble was what to do with Sims and Rogers. Some were in favor of hanging both of them, while others were satisfied with hanging one, although upon the question of which should be that one there was a division. Finally Sims was let off by making full restitution and reinstating Sprenger in all his rights. But this mild punishment only tended to concentrate wrath against Rogers, the unjust judge. Louder and louder grew the ominous murmur that presages popular outbreaks. Hayden saw it coming; so did the three attorneys. The scale of Rogers' destiny was ready to turn upon a feather's weight. His life was scarcely worth a pewter dollar. Already cries of "Hang the scoundrel!" "String him up!" were heard on every side, and the crowd began their dreadful surge in his direction, when Prim, Hayden, Jacobs, and Kinney, all with one accord threw themselves into the now deeply agitated mass of humanity and begged them not to mar that fair day's work by so foul a crime. They were successful; the unjust justice's life was spared, but only on condition that he should immediately resign, which he was but too glad to do.

One day in November 1862 John Desmond and William Lybia, Americans, were sitting at a table in a saloon in the town of Auburn, Oregon. Tom the Spaniard, a desperado well known throughout the Powder River region, entered and proposed a game

of poker. The Americans consented, but on dealing the cards the Spaniard had not the money wherewith to ante. The Americans then rose from the table; the Spaniard applied to them abusive epithets, to which the others retorted. Quick as a flash the Spaniard drew a knife, stabbed one to the heart, and then attacked the other. After a prolonged scuffle the Spaniard likewise stabbed this man to death, and then departed. The barkeeper, the only witness of the affray, seemed in no haste to spread the intelligence, and the sheriff did not know of it until next day, so that the murderer had every opportunity to escape. Nevertheless the sheriff, with several parties of citizens, started in pursuit. After two days' search the Spaniard was arrested by two men from Mormon Basin and brought back to Auburn. The question then arose what should be done with him, and gradually amidst much lukewarmness and some opposition they concluded that the man should be hanged. The sheriff confined the prisoner in a saloon, and with a strong guard within and without, declared he would keep his charge at every hazard. Thus passed the night after his capture. Next morning miners from the surrounding camps began to come in, and gradually the friction of ideas produced considerable excitement, the result of which was a strong determination on the part of the people to hang the prisoner instantly. At eight o'clock in the morning the throng about the saloon was dense. One Kirkpatrick mounted a stump and addressed the people, advocating the side of law and order. He was followed by a Mr Johnson, who argued that the law could not or would not punish, and that the people should. Others followed, sustaining him. Many of those in the assembly who were unarmed were now seen proceeding for their rifles, and the fate of the Spaniard fast assumed fixedness.

Justice Abell that day held court on a hill-side west of the town in the open air. A strange mix-

ture of law and disorder were some of these border trials. The law was not strong enough to do much; and while the people came to the assistance of law, they could not bring themselves to do things in the legal formal way. They could get along very well through the forms of trial, the taking of evidence, and the determining the guilt or innocence of the prisoner. That was necessary; that was only fair-play. But when it was decided that a man was guilty, they could not see why he should not be executed; and when they had anything to do with it they usually condemned and executed. For that purpose had they left their work. Thus it was in this instance. The people of Auburn had a justice of the peace, and they might as well use him; but whatever should come of the justice of law, this murderer should hang. On this hill-side, with a big bowlder for a speaker's desk and a smaller one for the clerk's, justice held her court. Before Abeil the prisoner was brought, and the multitude gathered round. As the evidence was being taken it was written by the clerk and then read aloud to the assemblage. The people present then appointed a jury to decide from the evidence the guilt or innocence of the accused. Their verdict was "Guilty of murder."

"Shall the prisoner remain in the hands of the civil authorities?" was then asked.

"No!" was the reply, in a terrific yell, which reverberated among the hills.

Then arose the sheriff and said that he should defend the prisoner, and recommended those present to behave in a manner becoming good citizens. He was followed by G. C. Robbins; and the calmness with which he was listened to as he advocated mild measures encouraged the lovers of law in the hope that the company would disperse without doing violence. But it was only the lull before the storm.

Suddenly a rush was made for the Spaniard. The sheriff and his men closed round him, and the struggle became hot. It is worthy of remark in all these con-

flicts between the officers of the law and the people that great care is taken on both sides to avoid seriously injuring each other. Knives and pistols were not the weapons used in seizing a prisoner; that is to say, the use of deadly weapons would be the last resort. Thus it was that Whittaker and McKenzie were permitted to go with the sheriff of San Francisco. The people had no desire to hurt the authorities for doing their duty. Nor did the sheriff, as a rule, blame the people or question their right to do as they did; only the law, his mistress, was a jealous jade, and must be wooed coercively.

In this instance during the *mêlée* there were heard cries of "Shoot!" "Don't shoot!" followed by several shots. The result being that three men were shot, but not seriously, by friends of the prisoner. One Mexican after firing took to his heels, followed by twenty or thirty men, who shot him dead. Then as the dense mass surged and parted, the prisoner was discovered in the hands of the now madly infuriated people, who, seizing him by the chain attached to his ankle, ran down the hill, dragging him after them. On reaching Main street a rope was thrown round his neck; a hundred men laid hands on it, and ran with it about half a mile farther to a tree, where they pulled him up; but the man was dead long before the body was hanged.

The officers of Yamhill County, Oregon, in the spring of 1865 boasted their hundred thieves' discovery. The weakness of these outlaws was horses. Desperate oaths bound them; though what is worth his oath who steals? Grips and passwords made them known to each other. The haunts of this fraternity were along Rogue River and the Umpqua and Willamette valleys from California to Idaho.

George Fry, living on the Umatilla River, was subject to periodical fits of insanity. While suffering severely from an attack of typhoid pneumonia he was

seized with the fancy that his brother-in-law, William Stoughton, a kind-hearted and highly respectable man, at whose house he was carefully tended, had poisoned him. So strongly possessed of this hallucination was he that he insisted upon his removal from Stoughton's house to the residence of Doctor Marquan, his physician, who immediately examined him and pronounced him poisoned. "If I am poisoned, Stoughton has done it!" Fry exclaimed, "for he is the only one who has given me medicine." Thereupon Marquan circulated the report throughout the neighborhood that Fry had been poisoned by Stoughton. On the night of the 23d of February 1866 fifteen or twenty persons took Stoughton from his house and hanged him upon a tripod formed of three rails taken from a fence near by. Several persons were indicted for the murder after it had been proved beyond question that not a particle of poison had been administered the insane invalid.

The two worst thieves and murderers west of the Rocky Mountains were perhaps Owhi and Qualchien, father and son, chiefs of the Yakima tribe. For years they had kept the whole country in confusion, and had great influence over tribes accustomed to revolt. On the 24th of September 1853 Qualchien was guided by an enemy into the hands of the troops at Spokane, and was speedily run up to the branch of a tree, behaving so cowardly as to be disowned by his father, who was also a prisoner. The latter was shot while trying to escape.

The grand jury of Walla Walla, reporting in November 1862, regard with evident satisfaction their uncompleted though occupied jail. "The building stands on the public square," they say, "in a pleasant portion of the city, and has all the natural advantages of a fine circulating atmosphere. The prisoners say they are well fed and properly cared for, and express entire satisfaction with their treatment." Altogether a

pleasant place in which to spend the summer; only the accommodations are inadequate for the rapidly increasing number of guests. Among its other advantages the *Washington Statesman* of the 30th of May 1863 assures felons at large that "prisoners confined in this structure have never had any trouble in making their escape from it when they wished to do so." Hence it is not surprising a month later to find the farms of Coppei and Touchet stripped of their horses, and seven thieves sending them word from Snake River that with three revolvers each they stand ready to defend their newly acquired property. Vigilance associations had been formed in every settlement and mining camp of eastern Oregon and Washington and western Idaho and Montana—of all that region affected by the Boisé mines—except Walla Walla Valley, where there was no organization. As soon as it was noised among the brotherhood, they swarmed like locusts in this vicinity. Meditating upon which the men of Coppei and of Touchet, banded for purposes of war on crime, and dignifying their compact by the term vigilance committee, started for Snake River. There the owners recovered their horses, but the only braves of the twenty-one revolvers then present were William Bunton and Clubfoot George, and these made good their escape. Afterward Bunton rode boldly into Walla Walla, and although the authorities knew him, and knew him to be there, they permitted him to escape, whereat the men of Coppei and of Touchet were very indignant, and opened a fire, regardless of grammar, through the columns of the *Statesman*, to which the sheriff replied in current slang no less refined.

When Fort Walla Walla was the centre of a savage wilderness all was orderly, and as a rule peaceful and safe. When near the fort the homes of settlers began to cluster, and the adjacent valleys were dotted with the white man's cabin, the advantage of bloody encounters among human beings was not recognized. But when

the mines of Idaho and Montana opened a route to that region by way of the Pacific Ocean and up Columbia River to Wallula, and Fort Walla Walla became a point of departure for Boisé and Lewiston, and an entrepôt for miners' supplies, the gold-god then assumed his sovereignty, and with attendant fiery drink and deadly weapons wrought hate and bloody pandemonium. Patrol and vigilance organizations followed as a matter of course. How should a government capable of holding in check three or five thousand drinking, blaspheming adventurers of unharnessed tempers rise in the forests or drop upon the plain!

During the first half of 1865 the city and valley were more than usually infested by thieves and vagabonds. The jail was well nigh useless as a place of incarceration, and the law was utterly inadequate to protect life and property. The people were divided as to the right or necessity of the vigilance organization then existing. Upon the affidavit in April of one Dutch Lewie, who affirmed that he had been taken from his bed by vigilants and partially hanged in order to make him tell what he did not know, and confess to what he had not done, five persons were arrested, four of whom were immediately discharged and the other held to answer the charge of assault with intent to do bodily injury. Again about the same time a half-drunken, boastful vigilant was seized by the opposing party, calling themselves law and order, perhaps in irony, taken to a room, and, a handkerchief tied round his neck, choked in the endeavor to extort the names of the members of the Vigilance Committee.

During the winter of 1864–5 the residents along the Walla Walla River came together as one man, and organized a vigilance association, so that they might rid themselves of those that preyed upon them. Among other regulations the majestic red man was ordered not to loaf in that vicinity. To his kennel,

the reservation, he was directed to go by this latter-day liberty despot, and there to eat the crumbs of civilization and dream of the time when he too ordered stragglers off his parks and hunting-grounds. This committee began by requiring all bad characters to leave. Those that disobeyed they hunted to the death. One Goudron was required to depart. Charles Fancy, a half-breed, was caught, and the question being put if he should be hanged, a majority of three voted in his favor. He was not long in quitting those parts when freed. A horse-thief was followed into the Blue Mountains, near the source of the Umatilla River, in April 1865, where he was captured and hanged.

The actions of the Walla Walla Committee about this time speak for themselves. Sunday morning, the 16th of April 1865, a cattle-thief, McKensie, was found just below the town, near the race-track, hanging to a tree. On Monday, the 17th, Isaac Reed and William Wills were found hanged at the Walla Walla River. These men were caught and tried by the committee at Wallula for stealing horses. They confessed to several thefts; to having horses then secreted on the Columbia River above Wallula, and to having killed one of their own number in a quarrel at their rendezvous. Next day, Tuesday, a negro called Slim Jim was found hanging to a tree about three quarters of a mile east of the town. He had stolen a horse, killed a colored man in the Boisé Basin, furnished two criminals implements to break jail, and served a term in the Oregon penitentiary: enough to determine the fate of the black man just then, though at another time he might have lived on and have doubled his catalogue of evil deeds. The Portland *Oregonian* of the 21st of April comes out in an editorial, beginning "Fifteen men hanged at Walla Walla." Dropping rapidly in the number of executions it finally asserts that its informant knows of six! Such is the reliability of report; and this within so short a distance.

The following appeared in the Walla Walla *Statesman* of June 15, 1866:

"VIGILANCE COMMITTEE NOTICE.

"WALLA WALLA CITY, June 9, 1866.

"EDITOR STATESMAN:

"Will you give notice through the medium of your paper that the Vigilance Committee has been organized over a year, and during that time has not been entirely idle; but whether it has accomplished any good or not, the public are the judges. And the committee further give notice that they have made some amendments to their former plan of organization, which enables them to act more expeditiously, and with greater certainty in ferreting out the perpetrators of crime; and the committee stand ready to redress all crimes, and execute summary justice between the perpetrators of crime, no matter of what grade, and the interest of all good, well disposed, and law-abiding persons; and we make no distinction between officer and private, rich or poor, or vigilant and anti-vigilant. All are subjects for our action in the way of crime, and will receive equal justice at our hand.

"By order of the

"VIGILANCE COMMITTEE."

At Clearwater bridge in October 1871 one Jack Moran was hanged by the people for enlarging somebody's mouth and cutting off his ears.

What business New Dungeness, a little landing-place on the Washington side of Juan de Fuca Strait, has to talk about vigilance committees is beyond ordinary comprehension. With a good territorial government, a staid population, and no great influx of unruly strangers, it would seem that a handful of fishermen and traffickers might exist without resort to hempen justice. And yet I find recorded that on the 13th of June 1864 two men, Gould and Tucker, deserters from one of her majesty's ships at Victoria, and who had been the terror of the country for some time previous, were shot by those calling themselves a vigilance committee.

Further than this, a regularly organized vigilance committee, with its officers, sub-committees, No. 54 secretary, hanging-master, and all the appointments for efficient work, was formed, expatriating and exe-

cuting *ad nauseam.* Here is one of their orders to leave:

"NEW DUNGENESS, July 10, 1864.

"TO JOSEPH CLIFFORD:

"Be it known to you that the Vigilance Committee of this place have arrived at the conclusion that you or your services are not wanted in this country any longer than this next week, for the reason of the threats made by you; and if you are found in this country after the 16th day of the present month you may expect what your fate will be.

"By order of the Committee, No. 54, *Secretary.*"

Tucker, above mentioned, had received such a notice, to which he paid no attention, and death followed disobedience.

Two others received notice to depart about the 6th of May 1864. Says the Victoria *Chronicle:*

"They were ordered to leave the country for (as they say) being republicans, and the Vigilance Committee, being composed of democratic copperheads, wished to get rid of their votes and opposition at the election, the leader of the vigilants being a candidate on the copperhead ticket. The sentence was death should they return to that country. On Friday last our informants were on their way to Port Townsend from Victoria to attend court, when the canoe in which they were was blown ashore on Diamond Point, above Dungeness. They put up at a settler's house on the beach, and in the middle of the night were awakened by nine vigilants, all of whom were armed with guns and revolvers. They pinioned the two men and took them back to Dungeness in a plunger. On Monday the Vigilance Committee, to the number of forty or fifty, gathered together and tried the prisoners, who told them that they were on their way to Port Townsend to see the vigilants when driven ashore by the wind. The committee talked of hanging the men up forthwith, but the members were divided in opinion on the matter, the parties who opposed the hanging denying that the prisoners had ever committed a crime which would justify their execution. The men begged and prayed for life, and finally, on the promise that they would never return to Washington Territory, nor enter any suit against their prosecutors, they were liberated. They were allowed three days to sell their farms, which was effected at a ruinous price, and they left, arriving here yesterday. The Vigilance Committee have sworn to drive out or hang several other settlers, who at present are absent from the country, on their return."

Clifford and George Lawrence, who were favored with like notice to leave, were said to have been men of good character and long residence in Washington Territory. If we may believe C. M. Brad-

shaw, writing from New Dungeness to the Olympia *Standard* the 11th of July 1864, though the organization was wide-spread, extending into the adjoining counties, it was a bastard association, and in no wise entitled to the name of vigilance. "Do not be deceived into the error that this mob is the people of this community," he says. "When it was gotten up no notice was given, no invitation to the public was held out to come in, but it was organized privately, only certain ones that they were sure were bad enough to do any act, however unlawful or bad, being invited to join; and up to this time they have no members but democrats and copperheads, and every man they have assailed thus far has been for the past two years a member of the union party." Mr Bradshaw was in error regarding its being a political organization with no union men in it. There were good men of both parties members of this association, but their mode of execution was simply cowardly murder, being to lie in ambush and shoot those whom in secret they had found guilty.

A bad element hung around Port Ludlow during the summer of 1865, and the people determined to be rid of it. The 14th of August two villains in open day knocked a man senseless and robbed him of sixty dollars, and then fled to the woods. Two friends of the robbers seeking to shield them were seized, whipped, and driven away by the people. Search was made for the robbers by the sheriff, who apprehended them and brought them before the justice of the peace. The citizens fearing escape, took them from the authorities and tied them to a flag-staff, where they confessed their crime and returned a portion of the money; then giving them a dozen lashes each, they placed them in a skiff and set them adrift, with a warning never to return.

In July 1866 the body of an Irishman who had been hanged by a mob was found under a tree near the Walla Walla River.

Andrew Inkster, or, as he was generally called, Charles Adams, according to his own statement was the first discoverer of gold on Fraser River. In 1858 Inkster, then living near the mouth of Fraser River, was called upon, rifle in hand, by Charles McDonald to pay a debt due one McCaw of Steilacoom.

"I shall not pay it," said Inkster.

"If you don't I'll shoot you," McDonald replied, raising his rifle.

"Shoot and be damned!" returned Inkster, reaching for his revolver.

And McDonald did shoot, sending a bullet straight through Inkster's heart. Pursued by government officers, the murderer fled across the line and reached the American side in safety. Soon after he appeared at Steilacoom, where he figured as a desperate character for several years. Becoming virtuous, or desirous of monopolizing murder, in 1861 he gathered a mob, which he dignified by the name of vigilance committee, and drove Charles Wren, accused of crime, from his land near Steilacoom and took possession of it himself. Much trouble was then experienced by owners of land, caused by 'jumpers,' as they were called, seeking forcible possession. Thus matters proceeded when in January 1870 McDonald, growing bolder, leagued with certain bad men, Bergh, Gibson, and others, to jump some of the best farming land near Steilacoom. The people saw that the time for action had come, that they must prepare themselves to bow before villainy or oppose it. So bold had the claim-jumpers become that they openly avowed their purpose to resort to violence and murder if necessary to the accomplishment of their purpose, and on several occasions settlers had been shot at from thickets, and notices embellished with a death's-head and coffin were found in the post-office directed to citizens in various parts, threatening them with assassination if they refused to vacate their land. Forty of the set-

tlers now banded, armed, and started in pursuit of the claim-jumpers. McDonald and Gibson hearing of it, started for Wren's claim to join Berg. The mob consisted largely of the old servants of the Hudson's Bay Company, French trappers, and half-breed fur-hunters, who had their own way of doing things, which, if bordering on brutal savagery, was honest and direct.

Justice, hunted and vengeful, had sought the thickets and there issued her verdicts in the shape of bullets, which whizzed past the ears of those marked for punishment. Seeing the desperadoes coming, the settlers hid, and as they approached fired upon them. Gibson fell, pierced with two balls. McDonald, slightly wounded, leaped into the thicket and started for Steilacoom, about five miles distant. Gibson was placed in a wagon and conveyed to town, where the settlers found McDonald, with his wound dressed, ready to fight. Some of the assailing party advised him to disarm, which he did; but meanwhile the crowd had consulted and determined to kill him. When McDonald heard of it, he asked for time to arm; they told him to do so, but as he turned to take up his gun, the word was given to fire, and bang! bang! followed in quick succession. The wretch ran shrieking into a billiard saloon, but soon he was fatally struck. Gibson, reviving, seized a revolver and discharged two shots at the enemy, when he was riddled with bullets. These people delighted in hunting; hanging was not their forte.

During the autumn of 1870 incendiarism was frequent at Olympia, when the *Tribune* suggested the organization of a vigilance committee "to hang the first man or men caught setting fire to property in Olympia." The *Standard* opposed the measure.

Considerable excitement prevailed about this time in regard to land-jumping, particularly in the southern part of the territory and along the line of the proposed railroad, where land had suddenly assumed fictitious value.

At Port Gamble in May 1871 robberies round the mill camp becoming frequent, some Chinamen were suspected. Complaint was made and several arrested, but all denied the theft. This did not satisfy their accusers, whom the sheriff finally told to do with the Celestials as they pleased. It seems they pleased to hang two of them to a derrick until they were nearly dead, when unable to obtain a confession they drove them from those parts.

Mitchell, a half-breed, for killing an Indian at Tacoma the 17th of April 1873, was hanged by the people. Ten days later at the same place a native called Jim Shell killed Louis Moroe, a Canadian. The murderer was arrested, but was taken from the sheriff by the people and hanged.

Since the days of the California Inferno there has been no more prompt or thorough display of popular justice than that which occurred among the staid citizens of Seattle so late as the 17th of January 1882. The occasion of this display was the killing of George D. Reynolds, an estimable young man, by two footpads, James Sullivan and William Howard. Instead of throwing up his hands as ordered, he attempted to reach for his revolver, whereupon he was shot, and died in two hours. The people of Seattle were very angry; within two hours after the murder a committee of safety was organized and officered, and after two hours more the villains were arrested and delivered to the authorities. Brought into court the next morning, at the end of an examination wherein they had been remanded to the custody of the sheriff for trial, the inmates of the court-room rose in a body, and while some seized and held the sheriff, judge, and other officials present, others hurried the prisoners to their death. Lying in jail at this time was one Payne, convicted of the murder of Officer Sears, whom likewise the citizens hanged. A coroner's jury found in each case that the deceased "came to his death by hanging, but from the evidence furnished we are un-

able to find by whose hands. We are satisfied that in his death substantial and speedy justice has been subserved."

The Northwest Coast had its halcyon days, when the fur companies found it to their interest to treat the red man kindly. Theft was then almost unknown. In their traffic with the natives, store-keepers were accustomed to give them credit; and it was found that when the savage was properly treated and trusted he was as honest as the civilized man. Justice Begbie, returning from a circuit along Fraser River, reports to government in April 1859 that there was on all sides a submission to authority, a recognition of the right, which he had not expected among so mixed a population, with so large a predominance of the Californian element. There were few complaints of any kind, and none of violent crimes; and this where law was little known and justice seldom sat in sedate robes. British Columbia, for the most part, has enjoyed from its earliest occupation a good government, much better than usually fell to the lot of the border communities of the United States.

In the summer of 1842 Sir George Simpson, then at the head of the Hudson's Bay Company in America, came from Red River to Vancouver, whence he proceeded to Fort Wrangel, on the Stikeen, near Alaska, to investigate the murder of John McLoughlin junior, son of the chief factor west of the Rocky Mountains. The deed took place in April of that year. Simpson arrived at the conclusion that the murderers, servants of the company, had been excited by McLoughlin's cruel and overbearing conduct. They had nerved themselves by stolen whiskey on the night of the murder. Every person in the establishment appears to have been mutually bound to kill him, so that no disinterested testimony could be obtained except to show justifiable homicide of a drunken, quarrelsome, and cruel man. But this was not satisfactory,

and James Douglas was thereupon sent to search deeper into the matter. One man testified that every employé had signed a writing agreeing to murder McLoughlin, who seemed aware of his end, and who had affirmed to his wife that he would die like a man. McLoughlin fired first; his shot was returned, and after a respite the bullets of the mutineers stretched him low. McLoughlin's servant seems to have kept him informed of the plot, and was constantly on the watch for the attack, though the man confessed he would not defend his master. McLoughlin had flogged the men, kept them from going with other men, and was suspected of intrigue with a trapper's wife.

The officers and men of the Hudson's Bay Company were bound by strict agreement to subserve the interests of the company; they could acquire no personal or real estate outside their pay, and were subject to such punishment for neglect as the officer in charge might impose, having no appeal.

By 1845 the English government had extended the civil laws and jurisdiction of Canada over the Northwest Coast, and had commissioned James Douglas, Angus McDonald, and Mr Work as justices of the peace in civil cases involving not over two hundred pounds. In criminal cases, if the magistrate found sufficient cause, he might send the accused to Canada. In all minor matters the Hudson's Bay Company's will was absolute. Their men were bound to obey officers like soldiers. Flogging was a common punishment inflicted by all, from governor down to petty clerk.

An Indian shot Mr Black, the chief trader at Fort Kamloops, in revenge for some injury. The fort was closed against the tribe, and no trade allowed till the murderer was given up and hanged.

Mr McKay had been killed by a native at the mouth of the Columbia River in a drunken brawl. An expedition set out to punish the tribe unless the murderer was surrendered. He was given up and

hanged after jury trial. All the white men present hoisted him up on the gallows, strangling him, which proceeding filled the natives with horror.

In another case of the murder of a servant of the company by a principal chief, Mr Douglas went alone to the lodge of the chief and shot him dead. The white men were few, and none had dared to gain the reward offered by Douglas. These cases show the absolute sway of the fur companies over the natives.

In August 1846 a man jumped the claim of a Hudson's Bay Company's servant near Vancouver. Douglas, who was justice of the peace and county judge, gave the sheriff a warrant of arrest, and the man was put in irons. An American advised him to decide the case against his own people, or the man would bring suit for false imprisonment. The man accordingly appears to have received some compensation and to have been released.

The gold excitement had attracted from California a most reckless set of men, whose names had been duly recorded by the Vigilance Committee of San Francisco. The police had only been established at Victoria since July 1858, and consisted of some dozen untrained men, while no troops existed nearer than Esquimalt. A riot had caused a call to be made for troops to Victoria, which, however, were required merely to arrest a drunken miner.

By the Gold Fields Act of 1859 the acting governor of British Columbia was authorized to make laws for the regulating of mining districts. Actual settlers on agricultural lands were placed in fee-simple, under certain conditions, of one hundred and sixty acres of land. Besides magistrates for the respective districts a gold commissioner was appointed to look after the mines.

One day a blustering Yankee came to the governor and asked permission for a number of Americans to settle on some land. His request was granted on condition that they would take an oath of allegiance.

"Well," said the Yankee, "but suppose we came there and squatted?"

"You would be turned off."

"But if several hundred came prepared to resist?"

"We should cut them to mince-meat, sir!"

This same governor, Douglas, while in charge of a trading-post, was one day informed by his officer that insubordinate natives were forcing their way into the fort, and the officer asked if he should man the bastion. Douglas coolly replied: "Give them a little bread and treacle." And indeed this was effective.

It was the province of California to bless and to curse. She has made many rich and has dropped happiness into many a distant home; she has wrung the very souls of those who courted her, and scattered health and hope to the wind. In like manner she has done her neighbors good and ill; good in assisting them to develop their resources and in giving them the benefit of experience, and ill in sending them the refuse of her population, cursing them with the very element which cursed her first attempts at nationality.

There was Ned McGowan, judge, gambler, and shoulder-striker of San Francisco, and refugee of vigilance, who, having done as much wickedness as California was willing should go unrewarded, went to British Columbia, where we find him in the winter of 1858–9 still stirring disturbance among men at Hill Bar, two miles from Yale. There he planted himself upon a mining claim and gathered round him a crowd of reckless imitators, so that in January the government was obliged to send troops to restore order. At Hill Bar one of the most intelligent of the miners was made resident magistrate; at Yale were two, one of whom being a rascal was dismissed, while the other, though honest, was unfit for the position. The three judges were at constant variance. Each laying claim to a certain case, the Hill Bar man swore in special constables, and removed the prisoner by force to his jurisdiction. Of these special officers McGowan was

one. Being indiscreet in the use of his authority, to put the matter mildly, it was thought necessary to chastise him; but so gentlemanly and entertaining was he at the approach of punishment that he was only fined, when a severer sentence might have more evenly balanced his irregularities. Ned was by this time at home anywhere in the environs of justice.

The only two men who up to 1863 had attempted highway robbery in British Columbia failed to escape. "The extraordinary rarity of crimes of violence," say Milton and Cheadle, "is owing, we believe, in great measure to the vigorous administration of the late governor, Sir James Douglas, and the stern justice meted out by Mr Justice Begbie, but also in part, no doubt, to the nature of the country." Shut in by almost impassable mountain barriers, there was small chance for criminals to escape.

The Haidahs encamped near Victoria had been very troublesome for some time, and at last fired on a schooner. The chief of police sent a body of men to demand the surrender of the culprits and of all their arms. This was refused, and the governor sent marines to surround them, which had the desired effect. The offenders were brought to Victoria and publicly flogged—a great disgrace in their eyes—and all arms secured till the tribe should depart. A misunderstanding a few days after caused the arrest of two chiefs, Captain John and his brother. On reaching the police station the chiefs drew their knives on the officers, and were immediately shot.

At Metlacatlah mission, just south of Alaska, the magistrate had organized a native police, who are said to have been well disciplined and effective. There was a small calaboose of logs wherein the disorderly were confined.

In May 1864 the Chilicoten tribe near Bute Inlet robbed and murdered fourteen out of seventeen men who were building a road there. Shortly after a

trading party met the same fate. The government pursued and hanged several.

The execution of a native called Harry for the slaying, while intoxicated, of a member of a neighboring tribe out of revenge for some ancient wrong was denounced as a legal murder, opinion being that he who sold the liquor should have suffered in the Indian's stead. There was comparatively little highway robbery in British Columbia. The cause is obvious; first there was less upon the highway to steal, and second, as we have seen, there was less chance of escape. There were some robberies round Cariboo, however; one, that of a Danish packer named George Gibson in 1866 while on his way across Bald Mountain from Cedar Creek. He was shot in the head, his twenty-five pack animals were scattered, and a large amount of gold-dust which he carried was taken.

Before the ægis of government overspread Wild Horse Creek and the neighboring gold-fields situated in British Columbia near the Rocky Mountains, just north of the United States boundary, life and property began to be so insecure that the miners found it necessary to band and make laws for mutual protection. Wherever gold is there is discord. Agricultural and pastoral societies can live harmoniously without laws for years; but once discover rich gold-diggings and the vultures of avarice fly in from afar and wrangle over the prey.

In this wild district there arrived one day in 1864 a collector of revenue. With him as assistant he had but one constable, and there were there fifteen hundred miners, who had come in from the adjoining territories, many of whom were known to be regardless of order. The officer found no difficulty however in executing his commission. Those who had assumed authority gladly resigned to him; and in six weeks after his arrival a code of laws, meeting the more salient exigencies of their condition, was in force and all dues paid.

As in all the peltry-producing parts of the North-west Coast, Alaska up to the time it came into the possession of the United States was governed by officers of the colonization and fur companies, whose *ipse dixit*, except in certain cases of the higher order, was law. Indeed the country was not then open to emigration and settlement, so that there was little opportunity for the display of free thought or action by the servants of politico-commercial monopolies. The natives were treated with the utmost severity by the Russians; they were made to work like slaves, and if disobedient or refractory were whipped or shot at pleasure.

In June 1802, in revenge for killing certain of their countrymen by the Aleuts in a quarrel, the Koloshes rose and took the fort at Sitka. In due time they were overcome and again placed under subjection to their former masters. Hundreds of such instances appear in the history of the pacification of the coast, and the only justice administered in the settlement of difficulties is that of the stronger arm and more powerful will. Retaliation was the law of the Europeans; humble subjection the necessity of the conquered. And for a small offence there must be great punishment. A hundred Koniagas for the life of a Russian sailor was deemed about fair; though if the Koniagas happened to be good seal-catchers justice would be satisfied with a much less number, or even perhaps with the lives of the women and children of the offending tribe.

A few incidents will tend to illustrate the quality of early justice administered in these parts. At Andreaffski in 1866, a deserted fort, there was once a Ekogmut village, some of whose people worked at the fort. One day when but two Russians were left in charge of the fort, and these were coming naked from a bath, the natives attacked and slew them. The Russians of Saint Michaels being informed of the tragedy, sent over a small force, who slaughtered every one in the village; since which time the natives

of the lower Yukon have never dared to lift hand against their merciless masters.

For the killing of one of their number, or other injury, the natives of Alaska required payment in money or merchandise, and the government usually recognized their custom. In January 1869 three natives, a Chilkat, a Kake, and a Sitkan, were in some way killed at Sitka. Obtaining no satisfaction, either pecuniary or otherwise, the Kakes killed two whites in retaliation. War followed, in which the Kakes of that vicinity were well nigh exterminated and their village burned. So much for the Kakes. Five months later the Chilkats boarded a vessel and demanded money or life. A guarantee for the payment of money was given, and on the refusal of the commander at Sitka to recognize the claim the Indian agent paid the amount and so secured peace. At this time there were more drinking-saloons than private dwellings in Sitka. A court-martial was held at Sitka the 1st of April 1869 for the trial of James Parker for killing a native who had done some damage in a store in which the homicide was clerk. The verdict was that the act was not justifiable. Several soldiers were drummed out of service in November 1869 for robbing a Greek church at Sitka.

Eight murders within the three years ending October 1870 seemed a large number to slow and sparsely settled Sitka. The same amount of slaughter in Montana within a month would hardly have sufficed for gossip while it was being done. The Alaskans, however, did not like it that each murderer of eight, save one who was then in the military guard-house awaiting trial, should walk away unpunished. The savages did better justice than that. "We have seen women and children," writes one concerning military rule in 1870, "knocked down in the street by an army officer and United States postal agent; we have seen these two officers on the same day knock down poor inoffensive Russians, and the army officer hand

the postal agent a pistol to kill an American. We have known army officers to force their way into private Russian houses and atteinpt to take liberties with the women inmates that in any other country but Alaska would have cost them their lives. We have seen two companies of soldiers stationed right in the city, many of whom were not fit to run at large or live outside the walls of a state-prison, and who forced themselves into Russian houses as though it was a part of their duty; and what has been the result of all this? Simply that all the refined and respectable portion of the Russian population have left our territory heartily sick of and thoroughly disgusted with the very name of an American. And who can blame them? Who will not blush when he reads that out of a Russian population of five or six hundred in Sitka there are not over three young girls of the age of thirteen years who are not prostitutes? And in making this assertion we challenge contradiction. The soldiers, stationed in the heart of the city, went around spreading contamination, disease, and a state of demoralization only surpassed by that which existed at the time Sodom and Gomorrah were destroyed by an avenging God. We regret to say a few of the army officers also acted more like blackguards than officers.

In February 1870, at the club-house in Sitka, a quarrel arose between Lieutenant-colonel Dennison and a discharged soldier named William Bird, who demanded five dollars for playing the banjo at a party given by Dennison. Finally Dennison gave Bird the money, which was employed in the purchase of fiery liquid to feed the musician's already inflamed temper. Bird then fell into a humor for slaughter; so making ready his pistol, he informed Dennison of the bent of his desire, when that officer gallantly slapped the soldier in the face and directed him to a less hyperborean climate than that of Alaska. Bird's reply was a bullet aimed at Dennison, but which took effect

in the body of Lieutenant L. C. Gowan, standing near, killing him instantly. Bird was arrested, but while the constable was taking him to the guard-house the crowd seized him and undertook to hang him. It was a poor mob, a disgrace to the lynching profession. What did this refuse of battalions and whaling-vessels know of artistic hanging? First they threw a rope over the culprit and attempted to drag him through the streets. Then, as if fearful they might do something rash, they unloosed him, and taking him to a place proposed for execution, they fumbled a rope, as if with boneless fingers, until the mayor appearing alone and unarmed took the murderer by the collar and led him away, unmolested by the nerveless rabble.

At a Sitka bar-room in June 1872 a soldier broke some eggs in the basket of a Kolosh, who was offering them for sale. Words followed; the savage slapped the soldier, and the soldier kicked the savage. Khanahkich, brother of the egg-seller, took up the quarrel, and at the head of a party opened hostilities, and fired several shots. Major Allen, commanding, threatened the refractory natives with his big guns. The reply was, "Shoot, we are ready for you!" Uproar followed. To the clamor of the soldiers for permission to retaliate were added the insults of the Koloshes, who, when they failed to see the big guns belch destruction on their village, cried, "Boston tyhee is a coward!" At length the disturbance was bloodlessly quelled, and great credit is due Major Allen for his humane moderation in the affair.

CHAPTER XXXIV.

THE POPULAR TRIBUNALS OF IDAHO.

Quel pouvoir inconnu gouverne les humains;
Que de faibles ressorts sont d'illustres destins!

Voltaire.

Little ceremony attended the conviction and execution of horse-thieves in Idaho. To sit upon a stolen horse was dangerous at one time, as the position appeared to be evidence sufficient to warrant the owner in firing upon the person occupying it. Two horses were stolen from one Henderson, living at Boisé, in November 1863. Starting in pursuit, Henderson overtook the horses at Camas Prairie, each having on its back a rider. As soon as he came within range Henderson raised his rifle and fired, when one of the men dropped dead. The next shot brought down the other wounded. After all, retributive justice finds nothing so speedy as a leaden bullet. Leaving the two men lying where they fell, Henderson took the horses and returned to Boisé, giving information of what he had done at French Rancho, whose people immediately proceeded in quest of the bodies, though they did not find them until after dark. The thief killed was Hitchcock, *alias* Johnson; the wounded man was Mike Welch, who after disclaiming any knowledge that the horse had been stolen, died. Henderson's conduct, even if such arbitrary measures were necessary, was that of a desperado.

Probably the most notorious affair in the criminal annals of Idaho was the murder of one Lloyd Magruder of Lewiston, Idaho, and the capture, trial, and

execution of the assassins. It was one of the few cases in which the people rallied to the support of the law, bolstering the fledgling by their presence and intimidating it into the performance of its duty; so that after all it was an arrest and execution by the people, but done under covert of the law. Left to officers of the law, there would have been no arrest; left to the court alone, there would have been no conviction. The people of Idaho in this case seemed determined that the law, if possible, should fulfil its functions, and in so doing are entitled to praise. They were but just now under law; and like the boy with a wooden donkey harnessed to his wagon, he could pull the load much better alone, only he was bound the donkey should go. Unfortunately such patience and magnanimity is ordinarily too much for weak humanity. The law was inadequate for the purpose, and the people soon found that theirs was the short and quick way.

In this instance the law did well; it did its best. The inchoate condition of territorial affairs and the absence of judicial implements rendered court trials, to say the least, but little better than play at law; and to make matters still more embarrassing, this was the first court trial of any kind, civil or criminal, which had been held in the territory of Idaho. The governor in November 1863 had divided the territory into judicial districts, and had assigned judges to each. On the 4th of December the legislature had convened, and had prescribed by law territorial districts, reassigning judges thereto. A special term of court was ordered held at Lewiston the first Monday in January 1864. Yet the trial of Magruder's murderers was a model piece of court proceeding, and for the causes aforesaid.

The statement of the case is as follows: Lloyd Magruder was a popular trader and packer living at Lewiston, Idaho, but doing business also in Montana. In August 1863 Magruder despatched a large

pack-train with merchandise from Lewiston, Idaho, to Virginia City, Montana. Taking a short cut across the mountains, he selected a favorable spot in the new mines, pitched his tent, and on the arrival of his train opened his stock. By the 1st of October fourteen thousand dollars in gold-dust had taken the place in his affections of the goods and some portion of his pack-mules, and flushed with success the packer was now ready to return to Lewiston.

Meanwhile it appears that a gang of scoundrels had determined his destruction. Cyrus Skinner prompted the deed, and when, at first, fear was expressed for their own safety, Skinner reassured them by saying "Dead men tell no tales." He himself did not accompany the expedition. Chief among the villains was David Howard, familiarly called Doc Howard, an intelligent and educated man, brave beyond question, and skilled in the practice of his profession. In all affairs of the highway he was looked up to by his comrades as their leader. Christopher Lowry stood next in evil eminence, being as ready, as he expressed it, to kill a man as to kill a calf. Then there were James P. Romain, an apt scholar of Chris Lowry; William Page, timid but useful, as bold and conscienceless a crew as ever cut throat or dashed out brains for money.

It was arranged that they should gain Magruder's confidence while in Virginia and assist him, and under some pretext, after he should have turned his goods into gold-dust, return with him, and as opportunity offered kill and rob him.

Doc Howard planned the campaign, and, as the sequel shows, carried it to completion with consummate nerve and ability. Some of the men Magruder had met casually at Lewiston and The Dalles, but as none of them as yet were notorious for their crimes he knew nothing bad of them. It was the special business of Howard and his party to make themselves agreeable to Magruder, and they so far

succeeded that he took them all into his service while in Virginia. This was a great success for the villains. The packer had need of temporary assistance in the disposal of his stock, and Howard and his comrades became the most affable and efficient of servants. The chief and his lieutenant acted as clerks in the store, and very careful were they that none of the dust handled in that capacity should stick to their fingers. Was it not all their own? Page looked after the stock, and Romain acted as cook. Thus the days went by; in due time the business was finished and the packer ready to return. It happened that four friends of Magruder, Charles Allen, William Phillips, from near Marysville, and Horace and Robert Chalmers, two Missourians, brothers, were about starting for Lewiston, and it was arranged that they should travel in company. Doc Howard and his comrades pretended concern in finding their occupation gone. They did not fancy working in the mines, they said; prospects for honorable employment were not very flattering, and they would by no means entertain any other; they believed they could do better at their old stamping-ground, The Dalles.

Whereupon the artless packer said to them, "Join us; you shall be welcome; your journey shall cost you nothing; you shall each have a fat mule to ride, and your poorer one can be turned out along with the stock; your presence will be additional protection." Mephistopheles himself could not have plotted and performed better than Doc Howard. With villainous gratitude the cutthroats accepted the packer's proffered kindness. All being in readiness the party set out from Virginia City in high spirits the 3d of October. Besides the fourteen thousand dollars in gold-dust, the proceeds of his stock and part of his pack-train, Magruder had remaining twenty-six mules, which with six mules and eight horses belonging to Allen and other members of the party, made forty animals.

All went well until the eighth day from Bannock City, at which time a point was reached in the Bitter Root Mountains one hundred and ninety miles from any settlement, being west of the divide and between the Clearwater and Bitter Root Rivers. It was here Doc Howard proposed to make his stand and execute his bloody purpose. The two months' counterfeit of honesty to these men was becoming irksome; phantasms of throat-cuttings and skull-crushings had played with the imagination these many days, until the diabolic deeds themselves had become familiar, had been acted over and over many times, so that when the real acting of them came there was a coolness and precision about all they did, an audacity in the scope of their project, a fearlessness of consequence, a hellish abandon, an absence of race sympathy and humane feeling, unsurpassed in the annals of crime.

It was bright starlight overhead, though round the blazing camp fire the night was thick with dark design; white-sheeted was the ground with snow, but black enough the hearts that harbored this so foul treachery. Earth and sky sparkled in their purity; stygian stench came mingled with fair words from human breasts in which burned infernal fires. The custom was for two to be on guard during the night. The guard was relieved at twelve o'clock. It is now ten, the hour appointed for the slaughter. Two tents are pitched, and not far distant blazes the camp fire. Just over the hill the mules are browsing. In one tent sleep the two Missourians; in the other, Phillips, with Romain as a bedfellow, Allen a little apart, and Page, who petrified with fear lies buried in his blankets, for he is informed of that which is at hand, though by reason of his sunken soul he is excused from active participation in it. Magruder and Lowry are on guard. Howard lies hidden in the bushes near the animals. As if returning from the stock, Lowry approaches Magruder, who is seated by the camp fire,

and informs him that the animals are restless, and suggests that a brush fence be thrown across the trail to prevent their wandering. Magruder rises, takes up his gun, from which the caps have been removed, and starts off with Lowry, who carries only an axe. When near where Howard is, Lowry stops and begins to cut brush for the fence. Magruder stoops to gather the brush, when Lowry raises the axe over him and bringing it down buries it in his brain. Howard rushes out, having also an axe in his hand, and gives Magruder's head two or three additional blows. Howard and Lowry then proceed to the tent of the two Missourians, and each with his axe slays one. Taking then their guns, they enter the other tent, which is the signal for Romain to strike. The cry of Phillips, as Romain's axe cleaves his skull, rouses Allen, who is immediately shot by Howard, and this most belluine of butcheries is finished.

The next thing to be done was to cover all traces of their foul murder, that it might not be too quickly discovered, that the country might not be aroused before they should have time to escape it. For that this blood should cry to heaven to be avenged, they did not dream of aught else; but let now the rocks and mountains fall on the gory evidence of their guilt until they should make good their flight. As it was, even the snow and starlight were painful to them; for all nature, grown satanic, seemed now to laugh and dance as in derision.

Wrapping the bodies of the murdered men, some in blankets and some in tents, the murderers carried them to the top of the ridge and rolled them over a precipice; when, returning to camp, they built fires over all the blood-bespotted ground, one out where Magruder was struck, and others over the tent floors, but like the blood of murdered Abel, the damning evidence would not hush. Though they made great fires which should consume all material things connected with that night's work and threw into them

the camp equipage, pack-saddles, bridles, ropes, cooking utensils, and provisions; and though they afterward picked from the ashes the pieces of iron which would not burn, and putting them into gunny bags carried them down the hill and hid them behind a log, throwing the superfluous guns into the bushes; and though they likewise washed their bloody hands, and buried their bloody axes, and burnt their bloody clothes, and scattered the ashes, so that in the morning scarcely a vestige of the camp remained; and though they even threw off their boots and made moccasin tracks all round the place and on the ridge, thus attempting to lay their accursed deed at the door of that scape-goat of border ruffianism, the much maligned savage—yet the all-seeing heavens would not cease to cry it aloud, nor the impregnated air to whisper it wherever winds blew.

Driving the animals some distance from the trail, across a stream and upon a small prairie, they shot all but eight mules and one horse. Then taking the gold-dust which they had picked from the pockets of the murdered men, and which, as is usual in such cases, was not as much as they had expected to find, they rode on to Lewiston. Entering the town about nine o'clock on the night of the 19th of October, they put up at the Hotel de France. Four mules they had dropped on the way; the remainder of the animals, accoutred as they were with saddles, blankets, cooking utensils, and guns, they left with a friend, to be called for. Page then proceeded to the stage office at the Luna House and engaged seats for four passengers to Walla Walla, registering the names as Smith, Brown, Perkins, and Clark.

As might have been expected, these foolish proceedings on the part of the robbers did not pass unnoticed at Lewiston. Page had been recognized by a watchman while disposing of the animals; and at the stage office next morning the four men answering to the four commonplace names were closely regarded

by Hill Beachy, the stage agent, and others. After they had started the stage-driver noticed that they carried considerable gold-dust. Continuing their journey to San Francisco, wherever they stopped they assumed new names, and frequently deposited their gold with the hotel clerk for safe-keeping during the night. Arrived at San Francisco, Page and Lowry took lodgings in a private house, while Howard and Romain went to the Lick House. The gold-dust they deposited at the mint for coinage.

Meanwhile the people of Lewiston wonder where Magruder is, and why he does not make his appearance. From the Beaver Head country men arrive saying that the packer's party had left two days before them and should now be there. The stage-driver returning reports certain peculiarities of the four passengers. Closely following the surmises hence arriving come tidings of the dead bodies of Allen and Phillips, known to have been of the Magruder party, and the air round Lewiston becomes thick with suspicion.

Taking the affair from this point, what follows forcibly illustrates the difference between the ability and energy of court officials and the average man of business in ferreting criminals and bringing them to punishment. Every thought and action of the one is hampered by form, while the other is free to employ his wits and to follow them. A most diabolical murder has been committed; the bodies of slain citizens are lying in the mountains while their butchers are rioting upon the proceeds of their crime in the city. And there law would leave the matter impotent to avenge; but so will not Hill Beachy. True, interest and friendship unite to spur the stage agent. There is a large amount of money involved; reports of such wholesale slaughter along the main line of travel in Idaho circulated about the world can but be damaging to his business, by deterring immigration; Magruder is a man of family, a personal friend of

Beachy. But if our system of public service and our court enginery were what they should be, were what those who live by them affect to believe them, surely there should be some means of manufacturing enthusiam in the breast of a public officer.

Going round where the animals were stabled, Hill Beachy recognizes the horse and one of the mules as the property of Magruder; likewise a saddle and canteen, the former with blood upon it, he knows to have been Magruder's. Further investigation fixed the identity of the four passengers. The stage agent now remembers their presence and departure eastward about the time Magruder went away. As if by inspiration the whole plot flashes upon him. Magruder is murdered for his money, and the four men are the murderers. With scarcely a moment's hesitation the stage agent determines to follow the assassins and bring them to justice. Without difficulty he tracks them to San Francisco and secures their arrest.

Says Page in his confession: "Lowry stopped with me at this private house on Dupont street; we were arrested by Captain Lees of the police at this house; the other two were at the Lick House. When we were first arrested we were put into a private room and guarded closely. Howard was acquainted with the captain of police; there was an arrangement to get out a writ of *habeas corpus;* the captain was to have all but one thousand dollars; after this we were all put together so we could tell one tale." The attempt to release the prisoners under a writ of *habeas corpus* failing after several hearings before the court, the four men were delivered to the stage agent, who had been sworn in as deputy-sheriff, and with the assistance of two men who had accompanied him from Idaho the prisoners were brought back to Lewiston, where they arrived on the 8th of December, stopping at the Luna House.

In other times, before and since, these men would have been seized and hanged by the people before

ever they had reached Lewiston. Within the year the Lewiston Vigilance Committee had executed three men for a tithe of the present villainy. On this occasion, as if by common consent, it was resolved to let the law do the work. They had a new governor, a new judge, and bright unused court machinery; of all which they were very proud. They were tired of stringing and strangling, and were only too glad that their great and good uncle at Washington had sent them these thief-traps and rogue-exterminators, and now they were curious to see them in operation. Hence it was when the four prisoners entered town there was no violent demonstration, and they were allowed to remain in the stage agent's hands, as a deputy-officer of the law, during trial.

Previous to the trial Page made a full confession, which rendered the work of the court easy, and for which he was excused from being hanged. It is another of the oddities of law that the punishment of one of the vilest villains of the gang is mitigated as a reward for yet more dastardly meanness, enticed thereto by the law in the hope of saving himself at the expense of his comrades. Tried and condemned, though denying the truth of Page's statement, Howard, Lowry, and Romain were executed at Lewiston the 4th of March 1864. Page was shot by a low character at Lewiston the 25th of December 1866 and instantly killed.

When in May 1864 the Idaho Vigilance Committee suspended active operations they summed up the work accomplished, and found the result to be twenty-seven thieves and murderers hanged and a gang of desperadoes broken up during the year previous. These had murdered more than a hundred men, besides committing numerous minor robberies.

The Committee at this time did not disorganize nor even disband; they merely rested for a time. But this rest was of short duration. Crime, intimi-

dated for the moment, broke out anew, and the Committee found it an absolute necessity again actively to take the field. Two years later we hear from them in the following incident:

The grand jury reporting at Idaho City in May 1864 found nine bills for murder and thirty for assault with deadly weapons, which for the law was doing very well in a town so new as to have neither church nor school, and, as in the ruby days of California, where large and brilliantly lighted gambling saloons were in full blast day and night with loaded tables, revolvers, and bands of music.

A vigilance committee was formed at Payette Valley in the winter of 1864–5 for the purpose of clearing that neighborhood of the numerous horse-thieves and gold-dust counterfeiters. A den of these counterfeiters was broken up about the 1st of January, their implements being seized. These consisted of a mill in which they ground their bogus dust, a lot of spelter, and some crucibles. Five men were captured. There was an immediate scattering of the fraternity in every direction. Some fled to Auburn, others went over into the Grande Ronde Valley, and others crossed the mountains to Walla Walla. In boldness and duplicity the desperadoes of the region round Payette and Burnt rivers equalled any in the Pacific States. Pack-trains were frequently waylaid, such of the merchandise taken as the robbers could use, and the mules driven off. Highwaymen and cattle-thieves often dressed as Indians and took special care that the ground about the scene of an onslaught should be well covered with moccasin tracks. In one of their camps were found by a surprise party all the paraphernalia for Indian imitation, bows, arrows, tomahawks, skins, scalps, and the like.

In Idaho at this time politics was a sentiment which affected local interests about as much as an Alaskan north wind affects a norther of the Mexican gulf. In the summer of 1865 a gambler, Patterson, a seces-

sionist and democrat, shot an ex-sheriff, Pinkham, a union man and republican. The former saved himself from popular fury by immediately delivering himself to the law. The grand jury was in session at the time, but failed to indict him, and he was held for another grand jury. Meanwhile the people thought they saw more politics than justice in the proceedings, and organized a vigilance committee for the purpose of taking Patterson from jail and hanging him. The authorities, law and order men, and secession sympathizers rallied to the protection of the prisoner, and gathered round the jail to the number of one hundred and fifty men, well armed with rifles and revolvers. Opposed to them gathered three hundred armed citizens. Each side drew up in battle-array. The citizens occupied the streets leading to the prison and the hills adjacent. After three days' manœuvring, attended by no little *brutum fulmen*, the people withdrew their forces, leaving the felon-worshippers masters of the situation. Party spirit was the actuating motive on either side rather than simple love of justice, and firing once begun, a bloody battle would have been the inevitable result. In due time the case was brought to trial; the prisoner was found not guilty, and, with the congratulations of the judge, was discharged.

Says the Boisé City *Statesman* of the 3d of September 1865:

"We doubt if the legal annals of any country on the continent can present a parallel to this state of things. People have ceased to feel that life is protected by the law; they have ceased to feel that punishment follows crime; and hence good men, who would gladly let the law take its course if it could be enforced, feel that they must either protect themselves without the forms of law or they will be a prey to a legal lawlessness worse than mob rule itself. We know that this is a bad state of things. We can realize why men feel driven to the desperate expedient of lynch law, and while we do not approve we feel hardly able to denounce it.

"There should be no excuse for such things. If men in authority did their duty there would be none. It is the abiding conviction of many of the best men in Boisé County that the machinery of the courts is but a farce to enable criminals to escape. It is not a thirst for blood on the part of good citizens

that leads them to encourage vigilant organization, but it is a desire for justice, a wish for protection, and a belief that there is no other means for attaining the end. When men like Patterson are surrounded by a crowd of roughs who evince a determination to prevent a fair trial according to the form of law, then the better class cease to respect those forms. It is notorious that Patterson, instead of being treated as any other person charged with crime, is the recipient of the finest hospitalities that the jail affords. A fine room, fitted up in the best style for a gentleman, not inside, but outside the prison, is his house. He is surrounded by guards whom many honest men believe unsafe and untrustworthy, who they believe intend simply to protect him from his enemies, and not enforce the law if it should be against him. He walks the street with a single man at his side, and from whom if he chose he could escape at any moment. Now if he be entirely innocent, we tell the authorities it is no way to enforce the law. You bring discredit on yourselves by this conduct if you are acting in good faith. Treat all criminals alike; show a disposition to enforce the law against all in the same just way, and no one will suspect your integrity. Show to the people that though a man may have friends by hundreds banded for his protection, the law shall have due course, and they will cease to complain and organize to execute the law for themselves."

Up to this time, if we may believe the district attorney, within the limits of Boisé County there had occurred some sixty deaths by violence without a single conviction of murder in the first degree. So late as January 1866, there was no territorial prison in Idaho and no prison facilities for the safe-keeping of territorial prisoners other than the provisons that the county jails of Boisé and Nez Percés should be considered such temporarily. Every new community is obliged at an early date to provide lodgment and food for its evil-doers; and among the first contributions the people are called upon to make are those for the building of some structure, perhaps the most imposing in the state, as a caravansary for criminals. Thus it is that, whether at large or under confinement, thieves and murderers subsist at the expense of the honest and industrious. It is little wonder, then, that impatient border men should favor short shrift for these troublesome and expensive vermin. It is a sad commentary on human nature that the cry of penitentiary is heard as among the first necessities of association. Punishment constitutes the primary pleasure of government.

David C. Updyke, sheriff and tax-collector of Ada County, was arrested on the 28th of September 1865, charged with defrauding the revenue and for failing to arrest West Jenkins. Alfred Slocum, treasurer of Boisé County, was arrested in January 1866 for defalcation to the amount of about eight thousand dollars. Updyke was soon at liberty, under bonds, but they were bonds which were easily broken.

The Ada County Volunteers, of which Reuben Raymond and John C. Clark were members, had recently returned from a raid upon the natives. The 2d of April 1866 a case concerning transportation for the company was before the court, in which Raymond testified. Next morning about nine o'clock, while Raymond and another were disputing about the facts in the evidence, Clark came up, joined in the quarrel, and soon Raymond gave him the lie. Thereupon Clark rushed upon Raymond, who dodged and drew his pistol. Clark then drew. To some by-standers who now attempted to interfere, Raymond said, "Don't be afraid; I am not going to shoot."

"Shoot!" cried Clark, "I'm going to fire."

"I don't want to shoot," returned Raymond; "I'll give you the first shot."

One would think so magnanimous an offer would have disarmed any but a venomous reptile. Taking deliberate aim Clark pulled the trigger. The cap snapped without exploding the charge. Again he repeated the operation, this time with fatal effect. Raymond made no attempt to shoot; he received Clark's ball in the abdomen, and next day died. Cark was committed for murder.

On the night of the 7th of April, Clark was taken from the guard-house at Boisé City by some twenty masked men and hanged just outside the town, upon a gibbet constructed with three poles. Pinned to one of the poles was the following notice:

"No. 1.

"Justice has now commenced her righteous work. This suffering community, which has already lain too long under the ban of ruffianism, shall

now be renovated of its thieves and assassins. Forbearance has at last ceased to be a virtue, and an outraged community has most solemnly resolved on self-protection. Let this man's fate be a terrible warning to all his kind, for the argus eye of justice is no more sure to see than her arm will be certain to strike. The soil of this beautiful valley shall no longer be desecrated by the presence of thieves and assassins. This fatal example has no terror for the innocent, but let the guilty beware, and not delay too long, and take warning.

"XXX."

Says the Carson *Appeal* of the 28th of April 1866:

"It will be remembered that Clark was recently committed to answer to the charge of murdering Reuben Raymond. He was deemed guilty of wilful murder, and the citizens prevented his living long to enjoy the achievement. He was forcibly taken from prison and executed by men in disguise. Parties who condemned the act and actors soon found their occupation gone. The city was threatened with fire, and everybody thus warned is prepared and will prevent incendiarism. From all we can learn, if a certain behavior is noticeable, there will be considerable work for the coroner, undertaker, and sexton at the capital. We hear it stated that this is an extension of the Montana Committee, and that all the through and cross stage lines are favorable to the organization; also that leading citizens lend their smiles. In view of the prompt and scientific manner of execution just adopted in Idaho, men of illegitimate occupations would do well to reform or emigrate. However wrong the method of punishment, facts must not be ignored. It don't change the real state of facts to charge the vigilants with the commission of the same crime of which their victims were guilty. The Boiséites have others in view, or why label this subject No. 1?"

On Saturday the 14th of April 1866 the body of D. C. Updyke was discovered at Sirup Creek, hanging in a shed between two houses, with the following notice pinned to the body:

"DAVE UPDYKE,

"The aider of murderers and horse-thieves.

"XXX."

Next day a few miles down the creek the body of James Dixon was found hanging to a tree. Monday morning, posted on Main street, Boisé City, written by the same hand that wrote the notice fastened to the swinging bodies, was the following:

"DAVE UPDYKE,

"Accessory after the fact to the Port Neuf stage robbery.

"Accessory and accomplice to the robbery of the stage near Boisé City in 1864.

"Chief conspirator in burning property on the overland stage line.

"Guilty of aiding and assisting West Jenkins, the murderer, and other criminals to escape, while you were sheriff of Ada County.

"Accessory and accomplice to the murder of Raymond.

"Threatening the lives and property of an already outraged and suffering community.

"Justice has overtaken you.

"XXX."

"JAKE DIXON,

"Horse-thief, counterfeiter, and road agent generally.

"A dupe and tool of Dave Updyke.

"XXX."

"All the living accomplices in the above crimes are known through Updyke's confession, and will surely be attended to.

"The roll is being called.

"XXX."

Commenting upon the execution of Clark, and on affairs in general, the *Idaho Statesman* of the 22d of April says:

"For something more than two years this territory has been ridden and ruled by both organized and unorganized bands of men, who have made highway and private robbery, burglary, and murder when necessary for that purpose, their profession; juries and officers of the courts have been terrified by their threats from a discharge of their duties, and in some instances they have succeeded in being elected to offices of trust only to betray the too confiding public into the hands of their bloody confederates, or to assist criminals to escape rather than to discharge their duty by bringing them to justice. Burglary, robbery, and murder were of almost daily occurrence and defied detection. And when there was a faithful officer to take the track of an offender, he soon found his prey so well guarded by confederates that capture was all but an impossibility. And when, as it sometimes happened, an arrest was made, witnesses, jurors, and prosecuting officers were threatened with speedy death if they dared to go on in the discharge of their duty, to such an extent that criminal trials have become a mockery. Good citizens have trembled for their personal safety for having served on a grand jury. The express and stage companies have been obliged to conduct their operations with the utmost secrecy to avoid robbery by villains whom they knew to be daily in their offices and on their stages watching for opportunities of plunder. If a merchant intended to leave town on business he used every precaution to conceal the time of his departure, so as to lessen the chances of being robbed. It is useless to state what is so notorious a fact, that a multitude of the foulest murders have gone entirely unpunished. To such a degree has this state of things existed that the law seemed to present no check to whatever outrages the villains that habitually prey upon society choose to commit. It is true the territory had laws, but a reign of terror prevented their execution. Space forbids us to mention the numerous atrocities that make up the long list committed here in Boisé City. The last one was the deliberate murder of Raymond, because he testified to the truth in a court of law. Before his almost

lifeless body was removed from the place where he fell, D. C. Updyke stepped up to a prominent citizen of this place and significantly said, 'That affair grew out of the lawsuit yesterday, and there will be many more like it.' The whole tenor of the preliminary examination of Clark gave the assurance that the same means that had defeated justice so often before were to be used to their utmost in this case. That Clark was committed to await trial, and afterward seized and executed, is well known. Updyke was most ferocious in his threats against several citizens, whom he charged with having a hand in the execution, and finally as he left town announced his intention of returning to pay Boisé City one more visit to get even, or to that effect. He has been executed, as also a confederate who went away with him. As to the terror that has reigned for the last two years, it has come to an end. Good citizens and peaceable men walk the streets and go about their business in comparative safety. The grand jury that is now in session, when their labors are done, may disperse without danger of being assassinated for the discharge of their duty. There is no alarm in the community and no terror for any one except those who prey upon society and their fellow-men. Such is the exact condition of affairs to-day."

The Idaho *World*, printed at Idaho City, was the law and order, democratic, and anti-vigilance organ of the day. The *Idaho Statesman*, printed at Boisé City, favored the vigilance party. One saw evil in every popular movement; the other only good. The death of P. M. McManus, reported as the result of the accidental discharge of his own pistol on the night of the 8th of August 1867, is charged directly by the *World* upon the Vigilance Committee as a murder. All in due time it came round, however, that murderers were permitted to pursue their avocations in peace; so that when, on the 31st of March 1868, J. Marion More, the discoverer of Boisé Basin, was killed, the *World* complimented the people on their good behavior. The killing of More grew out of a dispute between the Ida Elmore and the Golden Chariot mining companies, involving the boundary lines of the respective claims. In the dispute More had acted on behalf of the Ida Elmore claim. Matters were satisfactorily adjusted between the companies; and it was in an after discussion, mingled with fiery potations, that the killing occurred.

Jimmy Powers, Jimmy Reed, and Jack O'Neal were taken from prison at Bear River City the night

of the 10th of November 1868. Next morning the bodies were found suspended from a beam of the building with a notice pinned to each to the effect that other garroters of that or other bands if caught would be similarly treated.

Chung, Kum, and Fung, each with an Ah before his name, seized a fourth Ah at Grimes Creek in October 1869, whom they claimed had spirited away five hundred dollars of their earnings, knowledge of the whereabouts of which they hoped to reach by the 'Mclican process of strangulation. A butcher happening to pass, notice was given of the affair; the Chinaman in chancery was released and his tormentors committed.

In 1870 the *Idaho Statesman* thus reviews the annals of crime in that territory for the eight previous years:

"Four men have been shot to death in Idaho during the last two weeks. And something like two hundred have been hurried into eternity during the last eight years at the hands of violence, a large proportion of them downright murders. Five murderers only have been hanged by the courts in the same length of time, three of them the villains who killed Magruder, the fourth Sim Walters, who killed Bacon, the fifth one Anthony McBride, who murdered a Chinaman three years ago. Many of these murderers have gone to other territories, and in turn got killed or hanged; some have died, some are scattered about, and the remainder are still in Idaho running at large. One or two, we believe, by some mismanagement are in prison, but will no doubt be released at the term of court being held at Idaho City. The ratio of bloody crime is increasing and will increase until the law is more rigorously enforced."

James M. Wood had lain in the Lewiston jail some six months for the murder of Thomas Duffey, and had been tried and convicted, when Governor Ballard commuted the death sentence to imprisonment for life. The people, however, from the first had determined the man should die. About four o'clock on the morning of the 13th of January 1870, a body of armed men disguised as Indians approached the prison, and while some of them quieted the jailer with their display of pistols, others took the prisoner to

the junction of the Clearwater and Snake rivers, and in an unoccupied building hanged him until dead. This action on the part of the people was not the result of momentary excitement, but of months of calm reflection. They felt that a great crime had been committed, that the man Wood had had a fair trial, and that the verdict of the jury was just. They could not therefore see justice robbed by a weak or corrupt official.

Reviewing the past and surveying the present, the editor of the *Idaho Statesman* the 25th of June 1870 writes:

"In all newly settled countries we naturally expect for a while a laxity in the enforcement of laws and an undue prevalence of crime. Idaho cannot, or at least should not, be classed under this head. We have been an organized territory for over seven years. During that period we have enjoyed everything allowed by the central government to a territory; we have our schools, churches, civic societies, and newspapers; we are within prompt and early communication with the commercial marts of trade and centres of intelligence, refinement, and civilization. We have our courts of justice, an able and intelligent bar, jails, and a penitentiary for the reception of malefactors. But notwithstanding all this, if asked if crime is punished, we are compelled to answer in the negative. Since the organization of the territory there have been but two legal executions in the counties of Ada, Boisé, Alturas, and Owyhee. Murders have been so numerous during the same period that we are unprepared to give the list without consulting the records. We will take, however, the past year, commencing with July 4, 1869: In the cities of Silver, Boisé, and Idaho, in a little over eleven months, eight murders have been committed. Of this number four of the perpetrators were acquitted; one is still confined in jail, trial having been postponed on the plea of insanity, which, as we all know, is equivalent to acquittal; one was convicted of manslaughter and sentenced to ten years in the penitentiary, but pardoned after about two months' confinement, on the petition of numerous citizens of Owyhee, it having been represented by them to the executive that he had shot the wrong man, therefore no crime was committed, and the killing was lawful. Another case, a Chinaman, upon being convicted of murder and sentenced to be hanged, committed suicide, showing that he concurred with the verdict of the jury. Shooting and stabbing affrays have also occurred during the same period, not resulting in death, too trifling, however, to attract the attention of the people. How does all this appear abroad? Is it calculated to encourage immigration? Can we expect our fertile valleys to be filled with an industrious class of farmers, our cities with intelligent mechanics and artisans? No; such people only emigrate to places where laws are enforced, peace and quiet prevail, and life and property are protected.

"Wherein does the remedy for these evils lie? Chiefly with the court.

A judge should go on the bench firm and impartial, with the courage and learning not only to vindicate the majesty of the law, but also to do justice to the prisoner, whoever he or she may be. We can relate at least one criminal trial, of very recent occurrence, in which the unmistakable and unwarrantable bias of the judge, David Noggle, had the effect of creating in the mind of the jury a determination to acquit. Again, another evil to be done away with is the reckless and unthinking manner in which petitions are gotten up in behalf of convicted felons. A morbid feeling of mistaken friendship in a few awakens in the breast of the many a sickly sentiment which wrongfully assumes the garb of mercy, thus indirectly giving encouragement to the further perpetration of acts of crime. This subject will bear referring to again, and we shall do it until the people have awakened to the necessity of a strict enforcement of the law against those who shed human blood so recklessly."

At Idaho City, at eleven o'clock the 21st of July 1870, the prisoners, seven or eight in number, took forcible possession of the jail. The keepers were driven within the grating and confined there; the prisoners then seized the arms and partially made their escape. The citizens quickly rallied and captured all but one, Williams, from Owyhee. There was considerable firing and three were wounded.

There was a man named Walters lying in the Lewiston jail, who, according to the terms of his sentence, should have been executed the 9th of June 1871, but to the indignation of the people the sheriff failed to perform his duty. Hence it was the Indian disguise was again assumed by the Committee, and on the night of the day on which Walters was to have suffered, the jail was forced and the prisoner executed. It seems that the prosecuting attorney had persuaded the sheriff that the sentence was illegal, and that it was his duty to disregard it. The gallows had been erected the day before the execution, but had been subsequently taken down by friends of the prisoner.

Simms, a resident of Payette Valley, was hanged by the people in May 1874 on a charge of fraudulently concealing cattle belonging to a Mrs Ray.

CHAPTER XXXV.

POPULAR TRIBUNALS OF MONTANA.

Tender-handed stroke a nettle,
And it stings you for your pains;
Grasp it like a man of mettle,
And it soft as silk remains.
'Tis the same with common natures,
Use 'em kindly, they rebel;
But be rough as nutmeg graters,
And the rogues obey you well.

Aaron Hill.

MONTANA, that is to say *montaña*, or mountain, dates its territorial organization May 1864, prior to which time it was part of Idaho, from the north-eastern portion of which territory it was mostly taken. The region is rich in agricultural resources as well as in minerals. More than a quarter of a century ago the Jesuits founded a mission on the Cœur d'Alêne River, and there taught the savage tribes the gentle precepts of the Christian faith.

In the spring of 1862, in Deer Lodge Valley and on Hell Gate River, gold was first discovered within the limits of this territory. Silver was first found at Rattlesnake Creek opposite Argenti, and shortly after at Prickly Pear Creek. The Bannock City or Grasshopper mines, on Grasshopper Creek, were discovered in July of the same year. In Fairweather Gulch, a rich mining district through which flows Alder Creek, a tributary of the Stinking Water, are situated the *soi-disant* cities of Virginia, the capital of Montana, Nevada, and Summit. North of Bannock and Virginia, at the Prickly Pear mining district, is the town of Helena. At the Rattlesnake silver mines on Rattle-

snake Creek, ten miles north-east from Bannock City, is Montana City, founded in 1865. For a wilderness, whose largest settlements can boast no better town than a huddle of log and board huts, this is a wonderful country for indigenous cities.

Sheriff of Montana in 1863 was Henry Plummer, chief of the road agent band. Many and contradictory are the versions given of his early life. He came to California in 1852, settling for a few years in Nevada City, where in 1856 he was made marshal. Before his term of office had expired he was convicted of the murder of Vedder, a German, from whom he had alienated his wife, and was sentenced to ten years' imprisonment, but on the plea of ill-health was pardoned by Governor Weller. Another murderous assault, which ultimately proved fatal, and a stage robbery followed; for the latter he was tried but acquitted. Now his record of crime becomes rapidly lengthened; he breaks jail, and assisting in the escape of Mayfield, another murderer, eventually reaches Bannock, Montana, where his career ends. He had eluded pursuit on his way thither through notices that he himself had published in California papers of his execution in Washington Territory.

Henry Plummer was not only a most daring man, but a leader who carried everything before him. In spite of his established character he secured the election for himself as sheriff not only of Bannock but of Virginia, and the appointments of his road agents as deputies. Bannock now became the head-quarters of a noted band of cutthroats and highwaymen.

For a time this worked admirably for the roughs, as they could rob and murder with impunity. After they had killed over one hundred and twenty citizens, and plundered stages, express shipments, and private individuals, no one dared to leave with or send money or dust out of the country. Any one who dared to demur to this order of things or suggest that the robbers were other than honest men

and gentlemen, did so at the imminent peril of life and fortune.

Under such conditions travellers were entirely at the mercy of the band, and while I give some few details of their crimes, many atrocities were committed which are unrecorded and unknown. Their system of stage robbery was most complete, as is illustrated by the following incident: In October 1863, as Peabody and Caldwell's coach was *en route* for Bannock, carrying considerable gold-dust and several passengers, difficulty was experienced in obtaining horses; two or three times it was found that the corrals were empty, and men were despatched to hunt the missing stock. At Dempsey Cottonwood Rancho, a rendezvous for Plummer's band, they took up as a passenger Dan McFadden, better known as 'Bummer Dan'; at Rattlesnake Rancho, which was not reached till evening, owing to the delay, they found that here also the horses were turned out. Another delay of several hours, and then with worn-out teams the heavy load was again on its way. All this delay was in furtherance of the plans of the road agents. Bill Bunton now mounted the driver's seat, ostensibly to assist with the whip. Before long he left the driver, Rumsey, to manage the horses alone, and entering the coach sat beside Bummer Dan. In less than five minutes the coach came to a stop; two men, muffled in hoods and blankets, ordered a "halt," and with raised rifles and the dialect of a Dutchman told the driver to "throw up his arms." At the same moment their accomplices in the stage manifested the greatest terror, by way of example to the other passengers; and at the command of the highwaymen all got out of the stage and threw up their arms. Bunton begged piteously for life and gave them his purse, as did also Bummer Dan, while the other passengers were searched, offering no resistance. In this robbery twenty-eight hundred dollars were secured by the band. Frank Parish and George Ives were

the two highwaymen in this instance. When the stage reached Bannock notice was at once given at Peabody's express office, where George Hilderman, another accomplice, was in waiting to ascertain whether any one was suspected or recognized. While no murder was at this time committed, it would have been done if there had been any provocation.

Other stage robberies followed through the remainder of the year, involving the loss of life and property to a most alarming extent. The culminating deed was the murder of one Nicholas Ibalt, on the 13th of December 1863, who had brought one hundred and fifty dollars to Dempsey's rancho, where he was to purchase mules for his employers. His body was discovered by a hunter named Palmer, who shot a prairie-chicken, which fell among some willows on the banks of a stream near Dempsey's rancho. Palmer, pursuing his prey, to his surprise and horror stumbled over the body of Ibalt. It was brought to Nevada and identified. There was great excitement over the tidings, and the first vigilance committee of Montana was organized that very night, its first work being to search for the perpetrators of this crime; and at ten o'clock twenty-five men, who had subscribed to articles of agreement, left Nevada intent on the capture of the villains.

Suspicion had fallen on two herders employed by Dempsey, who had assisted Ibalt in starting, and who, by reason of their associates, did not enjoy a very good reputation. They lived in a little hut about two miles from the house occupied by Mr Dempsey and family. On visiting this hut of the herders, there were found Long John, or as his mother would say, John French, George Hilderman, Whiskey Bill, Texas Bob, George Ives, and Alexander Carter: a full nest of them.

All were arested and taken to Nevada City, Montana, where on the 19th of December a new tribunal was organized, composed of twelve representatives,

all from Junction City and Nevada districts. The regularly appointed judges, Wilson and Byam, of the two districts were called upon by the miners to preside. According to miners' logic the men were made judges by the miners, the office they filled, if not the judges themselves, belonged to the miners, and they must obey the miners or abdicate. But the judges had no thought of taking exceptions to the action of the people.

Twelve from each district were selected to act as jurors, and the trial of George Ives began. Messrs Smith, Richie, Thurmond, Colonel Wood, and Mr Alexander Davis were Ives' lawyers, while Colonel Sanders and Charles S. Baggs conducted the prosecution. John French turned state-evidence, and the others, with the exception of Hilderman, were released, an action which the people ever after regretted. During the trial, which was conducted in the open air and continued two days, the sale of intoxicating drink was prohibited throughout the town, a wise and praiseworthy measure.

A two days' trial was a long one for the impatient miners, who had their own affairs to attend to; and while they were desirous everything should be done in a lawful manner, they were beginning to tire of disputatious formalities. Proceedings were narrowly watched by the officers of the Vigilance Committee, and during the second day they quietly informed the court that at three o'clock the trial must be concluded, and directed the court to instruct the counsel on either side that in their arguments before the jury they would be restricted to one hour each. After a half hour's consideration the jury reported twenty-three for hanging and one for acquittal.

Ives was a man of about twenty-five years of age, with blue eyes and light hair. His manner was sprightly and absolutely fearless. Now, however, confronted with the deeds of his past life, and death imminent, he begged for time. "How much time did

you give the Dutchman?" inquired Colonel Sanders. By this time day had departed, and silver light had superseded golden. The prisoner had many friends among the attendants, and these were belligerent on hearing the verdict. Menacing forms and scowling visages cast weird, imperfect shadows on the disturbed ground, and pistols, guns, and knives gleamed in the moonlight. But all was of no avail.

In an unfinished house the scaffold was erected, a large box answering as platform. This building, which had only the frame standing, was within ten yards of where the trial had been conducted; and here the sentence was executed.

Hilderman's trial was soon over. He was an old man, evidently a tool of the band, without courage to divulge what he knew, equally in terror of his confederates and of the Vigilance Committee. He was considered somewhat imbecile, and his sentence was banishment from Montana.

John French having turned informant, and having given sufficient evidence to warrant the conviction of Ives, was set free. His testimony was corroborated by Hilderman. Ives protested, even on the scaffold, that he did not commit the crime of which he was accused, charging it on one Alexander Carter; but his assertions carried little weight. Even if true, there were yet unatoned sins enough at his door to warrant abode in airy space—so thought the Committee. Nevertheless the words of the departing Ives did not fall on heedless ears, that is to say, so far as the apprehension of further villainy was concerned. During their imprisonment they informed their captors that their organization at that time, 1864, numbered one hundred and thirty, who had killed and robbed over one hundred men, principally between Salt Lake City and the Montana mines.

Two lawyers, Smith and Thurmond, were driven from the territory by the exasperated people for attempting to clear the banditti when arrested. Dims-

dale, writing of them, says: "They were employed as counsel of the road agents, and were banished. Thurmond brought an action at Salt Lake against Mr Fox, charging him with aiding in procuring his banishment. After some peculiar developments of justice in Utah he judiciously withdrew all proceedings, and gave a receipt in full of all past and future claims on the vigilants, in which instance he exhibited a wise discretion." It seemed to the people sufficient that the road agents should be permitted to accomplish their vile purpose unrestrained by law, without having the law interposed between them and justice by releasing them as fast as caught. That jurists should be obliged to admit the necessity, in criminal jurisprudence, which makes it the duty of the counsel to clear the guilty if it be possible, certainly augurs ill for the system. At all events it is a practice which border communities cannot afford to indulge in.

The Vigilance Committee was now strong enough to excite in Plummer's band fears for their lives. It was understood among them that pursuit was to be made for Ives' comrades; and brave indeed were the twenty-four citizens who undertook this perilous duty. Mr Dimsdale, writing of this expedition, says: "The volunteers formed a motley group; but there were men enough among them of unquestioned courage, whom no difficulty could deter and no danger affright. They carried generally a pair of revolvers, a shot-gun, blankets, and some rope. Spirits were forbidden. On the 23d of December 1863 the party, on horse and mule back, went by way of Stinking Water to the Big Hole, and over the divide in the main range. The weather was very cold, and there was a large quantity of snow upon the ground. Fires could not be lighted when wanted at night, for fear of attracting attention, and the men were but ill prepared to face the chilling and stormy blast which swept over the hills and valleys crossed by them on this arduous journey. Few know the hardships they encountered."

On Deer Lodge Creek, Erastus Yager, generally known as Red, was encountered. He was one of the band, but preserved his incognito so well that he threw the vigilants off their track, and had abundance of time to notify his comrades of their approach; so that when they reached Cottonwood their prey had escaped. For two days it snowed heavily. "The cold became fearful," says Mr Dimsdale, "and the sufferings of the party were intense. Some of the stock stampeded to the cañon out of the way of the storm. It was no small job to hunt up the runaways."

On reaching Rattlesnake they surrounded a rancho, where Plummer's men, Stinson and Ray, who were deputy-sheriffs, had Red under arrest, as they said, for horse-stealing, but would now release him on his promise to return to Bannock City. The vigilants pursued and captured him, and took him on to Dempsey's rancho, where a portion of their force awaited them. Here they made a second arrest of one Brown, secretary of the association. He was held to await Red's trial.

The men were taken to Lorraine's, where they arrived during the afternoon. At ten that night the trial commenced. Red turned informer, and fully described the whole organization of the road agents. He said that Plummer was chief of the band and Bunton was second in command; that the members were Cyrus Skinner, George Ives, Stevens Marshland, Dutch John, or John Wagner, Aleck Carter, Whiskey Bill, or Bill Graves, George Shears, Johnny Cooper, Buck Stinson, Ned Ray, Mexican Frank, Boone Helm, Club-foot George, or George Lane, Haze Lyons, Bill Hunter, George Lowry, Billy Page, Doc Howard, Jem Romaine, Billy Terwilliger, and Gad Moore. They had as a password 'Innocent,' wore mustache and chin whiskers, and a sailor's knot as a necktie.

The two men, Red and Brown, were taken to a tree on Lorraine's rancho and side by side were swung

into eternity. Previous to his execution Red had implored that the rest of the band should be punished, which was readily promised, and the pledge kept. He also said, "You have treated me like a gentleman, and I know I am going to die; I am going to be hanged; it's pretty rough, but I merited this years ago." And with the rope around his neck his last words were, "Good-by, boys; God bless you! You are on a good undertaking."

The bodies were left suspended for their comrades to care for. On one was fastened the label "Red, Road Agent and Messenger;" on the other, "Brown, Corresponding Secretary."

Says a resident in relation to recent affairs in Montana:

"The aforesaid excitement began at the Stinking Water mines, but soon extended to this place, and men are going and coming all the time between the several mining localities, as well as between Deer Lodge, Big Hole, Hell Gate, Bitter Root Valley, and Gallatin. I hope not to be understood by the word excitement alone, that those men have been hanged by an excited and unruly mob. I will say to their credit, though myself a lover of law and order, that a more sober, quiet, and determined assemblage of citizens with the law in their own hands I never saw. At one time in Bannock, just after the killing of a worthy citizen and wounding of another, while trying to arrest the Spaniard Frank, well known around Camp Douglass, the crowd were so exasperated that they tore to the ground the house in which Frank was found and killed, carried it away from the other buildings, threw the Spaniard on top of it, and burned all together. The people had an especial dislike for the house, as it belonged to Henry Plummer, and was occupied by Buck Stinson. It was there the Spaniard secreted himself, and killed a good man and wounded another while he was being arrested. The Spaniard was killed on the 11th. George W. Coply, who was shot by the Spaniard, died on the 12th, and was followed to his grave by almost the entire population. Smith Ball, who was wounded at the same time, is out of danger."

These men Coply and Ball were members of the Vigilance Committee, and were shot by the man whose capture they were attempting. He is spoken of elsewhere as Joe Pizanthia, "the greaser," which was probably his name. It was a mob, not the Vigilance Committee, which in a frenzy executed its vengeance in this way.

The next arrest was that of John Wagner, or Dutch John. He was brought into Bannock and imprisoned in an empty cabin until his fate should be determined. A vigilance committee was at once organized, and none too soon, as a communication was brought them that very night by four trustworthy citizens from the Virginia vigilants with an order for the arrest and execution of Plummer, Stinson, and Ray. These ruffians were then in Bannock, whither they had come preparatory to leaving the country. The committee knew there was no time to lose, and arrested the men, whom they found in different houses, apparently unconcerned about their fate. They were taken without delay to their place of execution, which was a cross-beam in an unfinished building. Their cries and curses broke the stillness of the night.

The great leader, Henry Plummer, begged hard for his life, cried like a child, asked to be chained down, offered to leave the country forever, and declared that he was too wicked to die. In his possession was found a paper describing the band, giving an account of their movements and their future plans. This document contained the names of eighty members of the foul fraternity whose extermination the Committee were earnestly at work to accomplish. Plummer was the most notorious of Montana desperadoes, and his organization the most powerful of early times.

The case of John Wagner was now considered by the Committee, and it was unanimously decided that he should be hanged as a highwayman and robber for his villainies of the past four years. A committee of one was appointed to notify him that he would be led to execution within an hour. At first his trepidation was extreme; he begged that they would punish him in any other way. "Cut off my legs and arms," he said, "and let me go; you know I could do nothing then." His native courage did not desert him ultimately, and the bravery he exhibited when on the gallows excited the sympathy of his executioners. He

was led to the building where his comrades had been executed, and saw their stiffened bodies ready for burial. He gazed at them stolidly; a few hours later and he was laid beside them.

On the morning of the 14th of January 1864 the vigilants of Virginia were to be seen fully armed and stationed in all directions so as to prevent the egress from the place of any one; at the same time volunteers from the neighboring vicinity were gathering in the main streets. Boone Helm, Jack Gallagher, Frank Parish, Haze Lyons, and George Lane, or Club-foot George, whose arrests had been accomplished, were pinioned and brought in front of the Virginia Hotel and arranged in a row. They each confessed separately to crimes, but none of them gave any full confession. They were taken to a building just being erected on the corner of Wallace and Van Buren streets, where the main beam running across the building answered admirably the purpose of the Committee. Here the five were executed. Haze Lyons and Stinson, who was hanged at Bannock, had been tried in Virginia by a legal court in June 1863, on the charge of the murder of Dillingham, and were acquitted. Lyons confessed to this murder now.

At their arrest and execution their various characteristics were freely displayed. Jack Gallagher appeared to treat the matter as a joke at first, but when fully satisfied as to its reality, cursed vehemently. While standing below the gallows he used continually the most profane language. His last words were, "I hope that forked lightning will strike every one of you." Boone Helm, looking at the muscular contortions of Gallagher, said, "Kick away, old fellow; I'll be in hell with you in a minute. Every man for his principles. Hurrah for Jeff Davis! Let her rip!" Other incidents are recorded in regard to the last hours of all these men, but they are too revolting to repeat.

Boone Helm had emigrated from Missouri in the

early part of 1850. He had committed a murder there, and had been pursued and brought before a court. After the third postponement of his trial he was set free, and coming to California is said to have killed a dozen men on these western shores. He was about forty years of age at the time of his execution. He seemed to be one of the most hardened of these desperadoes, without one redeeming quality. One of the first incidents mentioned of him in the territories is when, at Salt Lake City in the spring of 1858, he was in company with one Powell who had been trading with the Flatheads. Helm left The Dalles the autumn previous for Salt Lake in company with seven gamblers, carrying all the necessary implements of their profession, and a race-horse which was to beat anything in Utah. It was a short cut to that land where no stranglers are, and all of them reached it on the way except Helm. After four days' fight with natives a snow-storm set in, in which six of the villains perished, Helm shooting the last one, who had become snow-blind, for food. Soon after reaching Utah, Helm joined Johnson and Harrison's band of horse-thieves, made raids into California, and stole animals from the overland company and the military. At Lodi the quartermaster, recognizing and attempting to arrest him, received a ball in the head. Next we find Helm at Los Angeles, where he robbed a store-keeper; then we hear of him at the Salmon River mines shooting a man one Sunday afternoon for refusing to drink with him. He then escaped to Cariboo, where a life of violence soon made the country too hot to hold him. Between the Quesnelle and Antler Creek he assisted at the killing and robbing of three traders. Then making his way to the Bannock mines, he continued his evil course until the people in self-defence rose and hanged him.

On the 15th of January twenty-four men left Nevada intent on the arrest of the remainder of the band. The first day's march brought them to Clarke's

rancho, where Steve Marshland was found in bed and captured. His feet were frozen and he was wounded, as the Committee already knew from the confessions of his associates. He was brought out of his hut and hanged immediately. On the next afternoon, at Deer Lodge Creek, another halt was made, and Bill Bunton was next arrested. He attempted resistance, but was unable to cope with his plucky captors. He was taken to a house in the neighborhood, where the vigilants passed the night and breakfasted. Another detachment arrested one Tex. As Bunton's guilt was unquestioned, he was speedily executed not two hundred and fifty feet from the house. Tex was banished from the country, though afterward testimony enough against him was obtained to have cost him his life.

Skinner and Alex Carter were next secured at Hell Gate. Carter was stupid from drink; when he recovered his senses and was told of the convictions and executions he said, "All right; not an innocent man hung yet." These men were taken to Higgins' store, where after an examination of three hours sentence of death was passed on them. Both of these men were noted criminals. George Ives had accused Carter of the murder of Ibalt. Carter denied that charge, but said he was accessory to the crime, and told where the mules were which belonged to Ibalt.

It was said of Carter that when he left the east it was with an unblemished reputation; that he had been trusted in money transactions, and deserved the confidence of his employers. Here in Montana all was different, and evil associates sealed his doom.

Skinner was of a very different stamp. He was a saloon-keeper in Idaho, of a blood-thirsty temperament, and had always had a bad reputation. He endeavored to run from his captors in order to be shot rather than hanged, but his object was easily thwarted.

A small detachment started off for Bitter Root

Valley in pursuit of Bill Graves or Whiskey Bill. He was captured with but little difficulty. Placed on horseback, with a vigilant in front of him, he was taken under a tree, when he was given an opportunity to make confession, which he refused. The rope being adjusted, the vigilant suddenly put spurs to the horse, and as the animal plunged, Bill Graves was thrown from his seat, and quickly swung lifeless in the air.

Skinner and Carter were executed at Higgins' corral. The people had dug their graves, and at midnight witnessed the execution by the fitful light of their torches. Johnny Cooper, a lieutenant of the band, who had been wounded by Carter in a recent quarrel, unable to walk, was brought in a sleigh to his place of execution, and hanged on the same spot where his comrades had expiated their crimes.

Eight men were sent the same night in pursuit of Bob Zachary and George Shears. As one of the vigilants entered the house where Zachary was, he found him sitting up in bed, and throwing himself upon him, held him down until the others were able to pinion him securely. George Shears, although armed, made no resistance, and from the time of his arrest maintained the utmost indifference to his fate.

On the authority of Dimsdale, "Shears addressed his captors at the time of his execution in the following unique phraseology: 'Gentlemen, I am not used to this business, never having been hung before. Shall I jump off or slide off?' Being told to jump off, he said 'All right!' and leaped into the air with as much *sang-froid* as if bathing."

Zachary was also executed, within an hour after his arrest.

At the time of the execution in Virginia of Boone Helm and four others, another criminal, Bill Hunter, was a marked man, but he effected his escape for the time being. Now was his capture determined upon, and after severe exposure and many difficulties he was found in a cabin about twenty miles from the mouth

of the Gallatin, where he had taken refuge from a heavy snow-storm. During the intervening time he had kept himself concealed during the day, seeking food at night. He was immediately executed, the 3d of February, on a lone tree near the cabin, in full view of travellers on the trail, so that his associates might find his body and take warning. This was the last execution of any of Plummer's band. The reign of terror was now over.

In February 1864 the Montana Vigilance Committee comprised over one thousand members, exercising sway over the country round the settlements of Virginia, Bannock, and Nevada City, and far beyond.

Almost every one of the several hundred embryo cities of the western coast, at some period of their early history, and many of them at many different times, have been cursed with a town rowdy, who, full of bravado and fiery drink, heavily armed with bowie-knife, six-shooter, and gun, usually with a few followers at his heels, stalked the streets, making day disagreeable and night hideous. He is not such as life-insurance agents seek as a risk; for once filled with the ambition for acquiring villainous distinction, his career is usually of short duration. He is the foolish miller of the mining towns, who flutters for a moment in the polluted light of self-extinguishing vice, then drops besotted into the flame.

Such a one was J. A. Slade, well known in Virginia City, Montana, in the spring of 1864; a man well conditioned so far as the world goes, for he had a good wife and a fine rancho on the Madison branch of the Missouri River. He had lived for many years in Clinton, Illinois, respected on account of his family and for his own good qualities. Subsequently his character changed; and when he came west it was as a fugitive from his native state, for he had killed a

man in a quarrel, and was pursued by a sheriff for several hundred miles. In Virginia he gave little attention to business, for he was two thirds of his time in town, where he would drink and carouse with his companions, to the neglect of family and property. His boldness in crime intimidated the officers of the law, for he openly defied them. Once when he was known to be sober the Vigilance Committee sent him word that unless he better regarded the public peace, which should be preserved at all hazards, he must suffer the consequences of his evil ways. With his usual fool-hardihood he disregarded the warning and continued his practice of abusing law-abiding citizens, in several instances going so far as to even slap them in the face, and threaten in his expressive language "to bore them through" if they offered to oppose his playful wickedness.

On the 8th of March two houses kept by women were entered at night by Naylor Thompson, Harden, Slade, and others, who appropriated whatever they could make available, maliciously demolishing everything else. The proprietor of one of the places, called Moll Featherlegs, brought a suit before Judge Davis to recover damages. The suit was prosecuted by the best talent, and a jury of twelve miners formed, who feared not to act upon the testimony On the morning following these depredations, Slade and his companions were unusually combative. They were frenzied with liquor, and defied any one to prosecute them. Slade walked the streets with his comrades, freely using the most abusive language to any with whom he happened to come in contact. An attempt was made to arrest them, but seizing the warrants they destroyed them, and roamed and roared as usual until other warrants could be obtained. Threatening vengeance to the court, Slade called at Judge Davis' office, flung at him insulting epithets, and told him in a most insinuating way that some men's days were numbered. Then he walked away and entered a

certain house. He had been there but a short time when it was surrounded by a company of three hundred men, members of the Vigilance Committee. They were all armed, and acted with preconcerted method, placing a guard about town, and fully preparing for resistance. This was about four o'clock in the afternoon; business generally was suspended, and though no excitement was exhibited the streets were filled with people in a hushed state of expectancy. Few knew who was to be arrested. A strong force then entered the building and took Slade prisoner with but little resistance. He was marched down the street to a ravine, where to his dismay he saw a newly erected gallows prepared for him. As death stared him in the face he was cowed; his defiance was now changed into piteous supplication; he nervously glanced about him only to behold the hills, streets, and house-tops covered with men, women, and children, who to witness his execution had thus come together. The prisoner begged that he might see his wife; this request was denied, and he was ordered to mount the scaffold. Ten minutes were then given him in which to prepare for death. He asked permission to speak with Judge Davis, lawyer Sanders, and others. Judge Davis responded, when the prisoner begged most beseechingly that he would entreat the people to believe in his innocence, and that instead of taking his life allow him to leave the country, and he would go anywhere they directed. Judge Davis told him that he was powerless to help him. Again he urged that he should be allowed time to see his beloved wife before he died. A message had been sent to her an hour previous, but of this fact the Committee was ignorant. The rope was adjusted, and feeling confident that his death was now certain, his face turned deadly pale and his trembling legs could scarcely support him. His cries for his wife now became more vehement; he must see her, he said, to arrange some business matters. Again as his

arms were bound he cried, "For God Almighty's sake, let me see my beloved wife!" The crowd became greatly excited; the strongest emotion was exhibited, and cries of "Let him see his wife!" emanated from every quarter. A rush for the gallows was imminent, and a fight was only prevented by the sudden levelling of three hundred guns upon the turbulent mass that now tossed like an angry sea. A subdued quiet quickly followed, broken only by the continued appeals of the prisoner, which were now unavailing. His immediate execution was determined upon; for if they relented and allowed him extra time he might be rescued by his friends. With eyes unblinded the trap was sprung, and the man fell thirty inches, the toes just touching the ground. After hanging for half an hour the body was taken down and conveyed to the Virginia Hotel.

The crowd was slow to disperse; no complaints were uttered aloud except by Naylor Thompson, Slade's late companion in iniquity, whose threatenings of vengeance were silenced by the guard, who marched him to the gallows and would have executed him but for the remonstrance of the by-standers. He was liberated with the understanding that he should be banished from the country.

The excitement consequent upon his arrest and release had scarcely subsided when Mrs Slade drove up to the hotel, and alighting was conducted to the room where the body of her husband lay. It was scarcely half an hour since he had been carried from the gallows, and not until Mrs Slade entered the apartment did she receive knowledge of his death. Her grief seemed overpowered for the moment in thinking of the manner of his taking-off, and she prayed that God's vengeance would descend upon the murderers of her husband. She asked why some one did not shoot him instead of suffering him to die a felon's death. The sympathy of the community was with her, for she had always borne an excellent repu-

tation among a large circle of acquaintances. At her request the body was temporarily interred in the village cemetery, and afterward removed to Illinois.

Dimsdale, writing of Captain Slade, says, "There are probably a thousand individuals in the west possessing a correct knowledge of the leading incidents of a career that terminated at the gallows, who still speak of Slade as a perfect gentleman, and who not only lament his death, but talk in the highest terms of his character, and pronounce his execution a murder. One way of accounting for this diversity of opinion regarding Slade is sufficiently obvious: Those who saw him in his natural state only, would pronounce him to be a kind husband, a most hospitable host, and a courteous gentleman. On the contrary, those who met him when maddened with liquor and surrounded by a gang of armed roughs would pronounce him a fiend incarnate." Again he says, "Captain Slade was the idol of his followers, the terror of his enemies and of all that were not within the charmed circle of his dependents. In him generosity and destructiveness, brutal lawlessness and courteous kindness, firm friendship and volcanic outbreaks of fury, were so mingled that he seemed like one born out of date. He should have lived in feudal times. In modern times he stands almost alone."

Time was when a stage arriving in safety was a matter for general congratulation. For a traveller to run this gauntlet of highwaymen without disturbance one would think almost an unusual occurrence. But the war of extermination was conducted with vigor.

James Brady, early in the summer of 1864 living at Nevada City, shot one Murphy, whom the physicians declared could not live. The people argued in this wise: If with malice prepense Brady points a weapon at Murphy and fires, is not Brady equally guilty whether the shot proves fatal or not? The law said no; the people said yes. Murder was in the heart, in

the mind, in the eye and finger of Brady, and he is every whit a murderer as much with Murphy living as with Murphy dead. Certain absurdities are essential to law. And this is one of them: that if the ball strikes a rib and so is turned from its deadly errand, the crime is called by one name; if it strikes but a trifle higher or lower, the crime is called by another name. Yet the purpose was one, and the punishment, if the law was perfect in its action, would be one. The law, however, is obliged to judge intentions from results; and herein the law is deficient.

Brady was proprietor of a drinking-saloon. When he saw what he had done he threw away his weapon and fled, but was soon overtaken by officers of the Vigilance Committee and brought back to town. The next morning he was tried by the people and sentenced to die. Five thousand persons witnessed Brady's execution. He was marched to the gallows just outside the town by a guard of two hundred vigilants.

Jem Kelly, Brady's barkeeper and assistant in the shooting, was present at the trial and execution of his friend, and was himself adjudged deserving of fifty lashes on his bare back, which punishment was inflicted in an unfinished house near by. Afterward Kelly took to the road, and, as will be seen, pursued his evil career. In July a coach was robbed between Virginia and Salt Lake. A party of Montana vigilants set out in pursuit of the robbers. Learning that Kelly was implicated in the robbery, and that he had been indulging in other irregularities, they finally succeeded in catching him on Snake River, and after a trial he was hanged. His chief regret seemed to be in having to suffer two punishments, whipping and hanging.

At Salt Lake City in August 1864 one John Dolan was brought before the provost marshal for examination on a charge of having stolen some seven hundred dollars from James Redmond of Virginia, Montana.

The prisoner had been arrested by John McGrath, an executive officer of the Montana Committee of Vigilance, then embracing nearly all of the better class of inhabitants of the territory.

As a matter of course, the man had been arrested without process of law; McGrath had no warrant for his custody. He was present at the examination, as was also Featherstone, deputy-sheriff of Madison County, Montana. After hearing the statements of both sides, the provost marshal decided that he had no jurisdiction in the matter. There had been nowhere filed any affidavit alleging offence. No warrant had issued from any legally constituted body. He simply found himself in charge of a man against whom no proceedings had been taken. If the prisoner had committed any offence, continued the judge, either in this or in an adjoining territory, the proper course would have been to have taken him before the civil authorities, who upon application would have issued a warrant for his arrest and transportation to the proper place for trial. Such proceedings having been neglected, the provost marshal decided that he had the authority neither to hold the man nor to deliver him to either of the applicants for his custody, which applicants were the civil authorities of Madison County and the Vigilance Committee of Montana, by their respective officers. It was therefore ordered that John Dolan be discharged from the custody of the provost guard.

This was done. The law acknowledged its impotency, and let loose one of a class who were preying upon the vitals of a large and widely scattered community. Not so the Vigilance Committee. There were more members of the association at that time in Salt Lake City than McGrath. Dolan had not proceeded far from the precincts of the law which had treated him so kindly, when he was seized and thrust into an outward-bound stage, which carried him back to the scenes of his irregularities and to the custody of those less trammelled by forms of justice.

They arrived at Nevada on the 16th of September. His trial was a lengthy one, but his guilt was conclusively proved, so that his confession was only in confirmation of what was already known. He offered to make good to Redmond his loss if the Vigilance Committee would release him. Three hundred dollars had already been recovered. The sentence pronounced by the Committee was death by hanging, and was carried into effect at sundown of Saturday evening, the 17th of September, in the presence of thousands of people assembled from neighboring districts. Immediately after the execution of Dolan the remaining sum of four hundred dollars was collected and handed over to Redmond, so that by the death of the miscreant he should not be defrauded of the money. "An act of scrupulous honesty, probably never before paralleled in any citizens' court in the world," says Dimsdale.

Before the arrest of Dolan letters had been received informing the Committee that he was an associate of Kelly who was hanged at Snake River, and accessory to many crimes.

Henry Slater was a rough of reputation. In Utah and Nevada he was well known, too well known for his own comfort; so when diggings were discovered at Last Chance Gulch, on the edge of Prickly Pear Valley, near where now is the town of Helena, he was the first to cast in that camp his evil lot.

At Salt Lake he would have shot Colonel W. F. Sanders in the back had he not been prevented by by-standers. For this and many other outrages he would have died had he not saved his life by sudden flight from Virginia. John Keene was likewise a bad man. He was once barkeeper for Samuel Schwab at Virginia. He too came to Helena, not for the purpose of curbing his evil propensities, but that he might the more unrestrainedly indulge them. Between Slater and Keene a feud had long existed. Neither knew that the other was in town, when one day as Slater was sitting in front of a saloon with his

hat drawn over his face Keene came along, looked at him sharply for a moment, and then without a word, drew his pistol and planted two balls in Slater's body, which ended forever that desperado's career. Keene was arrested, and in the absence of a jail, the sheriff confined him in his house. A crowd gathered. Prominent among its expressions of feeling was that of disgust. Taking the prisoner from the sheriff they marched him into a lumber-yard near by, appointed a jury, and proceeded to try him. The trial lasted far into the night, a strong guard meanwhile being kept round the prisoner. Finally he was found guilty and executed. Thus the camp was cleared of two of its most venomous inhabitants.

This was the first execution in Helena; the prisoner was hanged from a tree in Dry Gulch, which afterward served that purpose repeatedly for thieves and murderers in the northern part of the country.

John Keene was also known as Bob Black. In the Memphis *Appeal* of November 24, 1865, is an article giving an account of an unparalleled catalogue of crime, of which Bob Black was the hero. After "a career of desperation and crime, which if given in its details would cause the blood-thirsty tales of the yellow-covered trash to pale for their very puerility and tameness, he escaped from Memphis, and with a couple of accomplices began a system of wholesale murder and robbery on the Hernando road. The atrocity and boldness of these acts created the greatest excitement in Memphis." After leaving that city Kelly went to Minnesota under his own name. Before long he organized a band of twenty men and transferred his depredations to a wider sphere throughout the territories.

Writing from Montana one says:

"A few rods south of Helena, and just west of the present overland stage road where it crossed Dry Gulch, and directly in the gulch, there stands a venerable pine, whose massive lower branches of weird and fantastic growth extend twenty feet or more from the gnarled and moss-covered trunk. Years since it lost its foliage, and now it is gradually yielding to decay, and ere long

a clod of vegetable mould will alone remain to mark the site of the famous hangman's tree. Could the old pine speak, what tales it could tell! But perhaps 'tis best that speech is not given, and that with the life of the old tree should pass the recollection of those early days when, forbearance having ceased to be a virtue, a short shrift and a hempen cord became necessary to rid the country of the desperadoes that infested it, and thus secure long needed protection to lives and property of honest citizens. Now law and order reign throughout the territory, and justice is attainable and administered through regular channels, and it is to be hoped that never again will circumstances call for or justify the formation of such an organization as was that of the Vigilance Committee."

During a long and successful career of twelve years' duration, Jacob Seachriest, sometimes called Jake Silvie, had practised brigandage. He counted his murders at the rate of one a year, that is to say twelve in all. Shortly after Keene's execution Seachriest was arrested at Diamond City upon divers charges, which, when his arrest was known at Helena, were greatly multiplied. The Helena vigilants then took the matter in charge, brought the prisoner to town, and confined him in the same cabin where Keene's last night was spent. Thence he was taken, after trial and condemnation, to the historic tree in Dry Gulch.

When Seachriest found denial of guilt was of no avail, he unburdened his mind by a full recital of atrocities committed. Previously, however, he had begged for a minister, and appearing repentant was baptized.

Three horse-thieves were hanged by the Committee of Vigilance of Montana on the 10th of June 1866 near Helena, and the Committee were then in pursuit of others. Throughout all the more thickly settled portions of the territory was posted the following notice:

"Beware! The Vigilance Committee is in session! Beware of the careless use of fire-arms!

"By order of the COMMITTEE OF VIGILANCE."

The 27th of September 1865 two horse-thieves named Jones and Collins, but called respectively Jack-

son and Morgan, were executed by the Vigilance Committee. The occupation of lawyers and judges at this time and in these parts was extremely restricted. Two months later, that is to say the 28th of November, George Saunders was found hanging upon the old Dry Gulch tree with the following inscription pinned to his back:

"This man was hung for robbing A. Slane of $1180, and for some smaller stealings."

There too, upon the same Dry Gulch tree, perished in March 1866 James Daniels, tried, convicted, and imprisoned by the law for the murder of Andrew Gaitley, but pardoned by the governor. Says the *Montana Post* of the 10th of March of this execution:

"The judge, as in duty bound, forthwith ordered the arrest of the liberated criminal, and then returned to Helena with the acting marshal's order to his deputy, John Featherstone, to secure the runaway, who had fled, it was supposed, to that vicinity. There was no such intention as flight in the mind of Daniels. He went there to revenge himself on the witnesses, as he had threatened. At Duston Hot Spring Rancho, fifteen miles from Helena, a reliable man informed judges Munson and Strickland that Daniels had told him, when he passed in the coach, that he was going to Helena to attend to one or two jobs of men who had testified against him. A fit subject for mercy was Daniels, surely. This news arrived in town almost as soon as he did. He seemed to feel intuitively that something was brewing that boded no good for him, and he went to Featherstone, who was yet without orders, and asked his protection. He was permitted to stay at the office, and at night that officer accompanied him to the place where he was going to sleep. At Daniels' special request Featherstone went around town to see if he could gather any information of a suspicious kind as regarded any proposed attempt on the person of the culprit. No symptoms were discovered, and he returned to inform Daniels that he was safe. On arriving at the store he was apprised of his having been taken away by parties unknown to the owners of the store, and in the morning his lifeless body was found suspended from the murderers' tree in Dry Gulch."

Charles Jewett met an ancient enemy at Diamond City the 4th of February 1866.

"How are you getting along?" asked the ancient enemy.

"I will show you!" exclaimed Jewett, who thereupon drew and fired; but failing of its message, the

bullet entered the breast of another whose name was Fisher, wounding him dangerously. The law examined Jewett, and the sheriff took him to Gallatin, where he lived, and placed over him a guard of two. Meanwhile as the facts became noised the people pondered. Jewett was not a lovely character. That he was not now a murderer was through no fault of his; that he would be one if left at large was certain. In common with all men he must die; following the course of the wicked he must die soon. Is it not better he should die quietly now, than after further uproar and a promiscuous scattering of bullets? As the result of these meditations and murmurings Charles Jewett was found hanging next day in full view of Gallatin City. Likewise not far distant was found suspended another unfortunate, of what name, by whom so placed, or for what wickedness, no one seemed to know.

The Walla Walla *Statesman*, commenting on affairs in Montana in April 1866, offers the following strong testimony in favor of the Montana Committee of Vigilance:

"A circular issued by the vigilants of Montana says that the organization is still in active existence, and that all offences against persons or property will be summarily punished. The practice of drawing deadly weapons is reprobated, and those who thus offend are warned that punishment will surely follow. As a rule vigilance committees are objectionable, but in the case of Montana it is doubtful whether honest men could have remained in the country had it not been for the Vigilance Committee. As it is, life and property are as well protected in Montana as in any country in the world, and all because the people have taken the law in their own hands."

Two miners at German Gulch, J. L. Goones and Hugh Dowd, lived together all winter, working by day and sleeping at night. All went well until one day in April 1866 the two men drank and disputed. Goones stabbed Dowd, and the people hanged Goones, though Dowd was not then dead.

Dry Gulch again; June 1866. 'Frenchy' he was called, but his right name was John Crouchet. He was thirty-five or thereabout and came from the Boisé country to these parts. Frenchy was a sort of limb

of the law, which circumstance led him to the limb of the hangman's tree. Elevated to the post of night-watchman, he stole seven hundred dollars from a drunken man: a very mean thing for even an officer of the law to do. With four hundred dollars of it he made himself first interesting, then roaring. When he could drink no more, being under confinement, repentantly he returned three hundred of the dollars. Upon the back of what was Frenchy his epitaph was posted:

"No. 7. A robber, perjurer, and one who tried to swear away the lives of innocent men. An old offender caught at last."

Then began men's consciences to question them: Had they ever robbed or sworn wrongfully, and should they too some morning awake to find what remained of themselves hanging upon the classic tree?

Twenty of the best citizens of Argenti banded the 28th of December 1866 for protection against crime, unable longer to endure the glorious uncertainty of the law.

Fat cattle were Jim Walter's fancy; though Jim Walter was his work-day name only, which he employed as one puts on a suit of soiled clothes for dirty work. Arrayed in respectability, and James P. Staley was his name. But whatever his name, he had a fondness for fat cattle. He was not particular where they were fatted, on the Missouri or in the valley of the Gallatin, but the more convenient they were to his unpretentious slaughter-house on Willow Creek the better. There was a good market for the meat in that vicinity, too. This was at Helena, and early in January 1867. Presently the stock-raisers began to miss their finest cattle, and Staley was charged with having stolen them. He concluded, all things being weighed, that it was best for him to leave that place. Opposed to walking, he took a horse that was not his and rode away. A body of cattle-raisers was soon after him. Staley was forced to quit the road and plunge into a thicket. Night coming on, the pursuers

built a large fire, when their game was discovered lying flat upon his breast pointing his pistol at them. To an order to come out he replied by discharging his weapon. The party then fired simultaneously, and the fellow was riddled with bullets.

From a tripod formed of three fence-rails twelve feet in length the body of Charles Wilson was found dangling one morning in September 1867. It was by the stone-quarry near Virginia. The body was fully dressed, the hat upon the head, the pockets untouched, and on the ground lay a blanket. The feet just touched the grass, and the single word "Vigilants" labelled the back. Wilson had been a companion of Slade's, an employé of the express company, a member of militia company D, and helper on the overland railroad. Last of all, his occupation was that of road agent. It appears that a secret association had recently been organized, numbering thirty-five active agents, with over a hundred supernumeraries, who stood ready as occasion required to assist, shield, and comfort members of the brotherhood. The purposes of the organization were robbery, and when deemed expedient, incendiarism and murder. The thirty-five were to do the work; the one hundred to assist escape, or if any were captured to act as jurors, witnesses, and bondsmen. The overland treasure shipments were to have their especial attention; likewise the burglary of certain stores in Virginia. Several prominent citizens, who objected to spend their lives in planting for others to reap, were also marked for murder. All this and more was imparted by one who had recently been sworn in as member; but what he told the Vigilance Committee they already knew. Thus after a respite in this quarter began anew the work of extermination. One Douglass, a cattle-thief, escaped from the Helena prison, and falling into his old ways again was caught and executed by thief-hunters.

For some time past the Virginia Committee had remained passive, leaving to law its opportunity.

During their former exercise of power they had succeeded in intimidating crime, and a period of quiet followed. But the discovery of the existence of a new and powerful criminal organization awoke them to the necessity of renewed action, and the execution of Wilson was the beginning of a new *régime*. The revival of activities on the part of the Vigilance Committee called forth much discussion. There was less partisan spirit manifest now than formerly. Now almost all the Montana journals without regard to politics, unite in awarding the highest praise to the vigilance organization. Says the Helena *Gazette*, the leading democratic paper in the territory, in October 1867:

"With many of our good citizens, we have deprecated the existence of such an irresponsible body in Montana as a vigilance committee, but chiefly deprecated its, at times, necessity. That this organization brought order out of the most bloody anarchy in Montana, at a time when law was powerless, its executive offices being in the hands of villains, no one at this day doubts. That many cold-blooded murderers and daring robbers have gone unwhipped of justice since they ceased to take cognizance of such matters is also true, and has been lamented by all good citizens who wished to see the law predominant."

A. K. McClure, writing from Montana in the autumn of 1867 to the New York *Tribune*, says of the vigilance organization:

"Of the brave men who inaugurated and openly sustained this movement, no one can justly be awarded exclusive praise; but there is one who figures as conspicuously in the history of the vigilants as did Plummer in the reign of terror. Some twelve years ago I was accustomed to meet on the streets of Chambersburg, Pa., a young man named John X. Beidler. His frugal wants were supplied by the manufacture of brooms, and finally he mixed the best of cocktails and juleps at a neighboring summer resort. He was as amiable and unoffending a lad as the community could furnish, and his jolly, genial humor made him a favorite with all who knew him. Although he had attained his majority, he was scarcely five feet six inches in height, and was far below the average of men in physical powers. He finally wandered west in search of fortune, and soon after the advent of Plummer came X., the only name by which he is universally known in Montana. Thus the bane and the antidote were close upon each other. Strong in his inherent love of honesty, a stranger to fear, not powerful, but quick as thought in his actions, and firm in his purpose as the eternal mountains around him, he naturally entered promptly and earnestly into the effort to restore order and safety to society.

That little was expected of him when he first cast his lot with the stern reformers is not surprising, but his tireless perseverance, unfaltering courage, and singular skill in thwarting the plans of the common enemy, soon made him the chief pillar of the organization and the unspeakable terror of every desperado. This diminutive man, without family or property to defend, has himself arrested scores of the most powerful villains, and has executed, in open day, an equal number under the direction of the wonderful fountain of retribution that was unseen but was surging around the hasty scaffold. So expert is he with his faithful pistol that the most scienced of rogues have repeatedly attempted in vain to get the drop on him; quick as a flash his pistol is drawn, cocked while drawing it, and presented to the doomed man with the stern demand, 'Hands up, sir!' and the work is done. At one time, without aid, he arrested six of the most desperate thieves in a body, all well armed, and marched them before him to prison. 'Hands up, gents!' was the first intimation they had from him that he had business with them, and submission was the only course of safety. Had any one of them attempted to reach toward his belt he would have fallen that moment. There were citizens close by, and how many of them, if any, were sworn to protect and ready to aid Beidler, he knew, while the prisoners did not. This indefinite, unseen, immeasurable force seems to have ever stricken the most courageous thieves and murderers nerveless, when its sudden and fatal grasp was thrown around them. They would fight scores of men for their lives in any ordinary attempt to arrest them, but they were invariably weakened when the citizen confronted them in the name of public safety. No formalities were known. No process was read bearing the high seal of the courts. When or where the dread summons of the great unseen tribunal would come none could conjecture. The sleeping companion of the desperado in some distant rancho would probably drink and breakfast with him, and then paralyze him by the notice, 'You're wanted—business at Virginia!' In no instance did any of the many lawless characters arrested by the vigilants ever fire a pistol in their own defence, even when they knew that death was inevitable. In most cases the opportunity was slight, but under all ordinary circumstances the narrowest chances would be taken to effect escape. From 'X' no criminal ever got away. To have attempted it would have been but to hasten death. So much did the desperadoes respect as well as fear him, that most of them, when condemned to die by his hand, committed their last requests to him, and with him they have been sacred. Order and public safety have been restored, but he still has employment in his favorite line. He continues to act as the chief detective of the territory. He comes and goes, and none but himself knows his errand. 'What's up, X?' is a query that is generally answered, 'After tracks;' and 'Don't know,' is his usual reply to all questions as to his route or time of departure. He has traversed alone every highway and settlement of Montana, prospected many of the unexplored regions, and is ever ready, without escort or aid, to pursue a criminal wherever he may seek refuge. His career has indeed been most remarkable, and his escape, unharmed, through his innumerable conflicts with the worst men seems almost miraculous. He has recently been appointed collector of customs for the port of Helena, but while there is a thief, a defaulter, a murderer, or a savage to disturb the

peace of Montana, he will remain the most efficient messenger of justice known in the mountain gold regions. He has lost none of his genial, kindly nature by his long service as the bearer of relentless retribution upon the lawless, and wherever he goes he is welcomed by every lover of order and government. When he is upon the war-path, 'it's no for neathing the gled whistles,' and crime has no escape but in timely retreat. Fully three thousand perfectly organized men are at his back. They have their companies, officers, minute-men, and messengers in every settlement, and he can rally in an instant scores or hundreds of true men to his side."

In connection with this fresh display of popular power there sprang up a new and strange organization, called by some anti-vigilance, though I should term it rather an opposition vigilance committee, as it seemed to oppose certain methods of procedure in the main organization, and not the principles themselves. They objected not to popular trials and executions, but to dark doings and secret executions by night. The *Montana Post*, always a strong upholder of vigilance, vouches for the honesty and respectability of the reformatory association, and expresses the opinion that the members thereof will resort to extreme measures for the fulfilment of their purposes. Here is one of their warning cries; to say the least, it opens a new phase in the annals of vigilance:

"We now, as a sworn band of law-abiding citizens, do hereby solemnly swear that the first man that is hanged by the vigilants of this place, we will retaliate five for one unless it be done in broad daylight, so that all may know what it is for. We are all well satisfied that in times past you did do some glorious work, but the time has come when law should be enforced. Old fellow-members, the time is not like it was. We had good men with us; but now there is a great change. There is not a thief comes to this country but what 'rings' himself into the present Committee. We know you all. You must not think you can do as you please. We are American citizens, and you shall not drive and hang whom you please.

"FIVE FOR ONE."

It is seldom we see a citizen ironed by the authorities for participation in a popular movement. Jack Varley worked for a Mr Guezalla at Deep Gulch. The master had made money enough and had concluded to leave the country; the man thought he would like that money, and so determined to rob

Mr Guezalla on the road, which he did, and was pursued and arrested for it by the citizens of Deep Gulch and Beartown. After the people had accomplished his work for him, the Beartown sheriff came forward and demanded the person of Varley, but was told that while he was at large he might have taken him had he been so disposed, but now all his countrymen demanded of him was that he should stand aside. The sheriff withdrew, nettled; and encountering one of the vigilants, McGee, alone and unprotected, under some frivolous pretext he arrested and ironed him, telling him meanwhile that if he would use his influence to have Varley delivered to the law he, McGee, should be released. McGee indignantly refused. Finally the people tried and executed Varley, and McGee was released on bail.

'Necktie sociable,' 'strangulation jig,' and many such euphonious names the people of Montana had for hanging.

An incident is given of a young man, son of a respectable citizen, who in March 1868 was travelling from Bannock to Salt Lake, and who, overtaking a man with several horses going in the same direction, naturally joined him. It appears that the stranger with the animals was a horse-thief of whom the Montana Vigilance Committee were then in pursuit. They had not travelled far together when they were overtaken, arrested, tried, condemned, and hanged together.

One day in August 1868 as William Hynson was standing in the street near the post-office in Benton he was accosted by one of the citizens of the place:

"There is a man to be hanged, Bill, and we want you to help us."

"What's his name? what is he to be hanged for?" asked Hynson.

"Never mind that, I have no time to talk; get a good strong rope and help me rig it, while the Committee bring the fellow out."

Hynson obeyed. As long as he was not chief actor

in the tragedy it was a pleasure rather than otherwise to be of service to the noble men who were exercising so healthful an influence upon society. The rope was brought. Soon a rude scaffold was ready, in the erection of which Hynson assisted with alacrity.

"Can't you tell me who the man is?" he asked again."

"No, no; fasten that end of the rope strong. You will know all about it presently."

Coming up by twos and threes, a crowd soon gathered, when Hynson was ordered to take his place beneath the gallows which he had helped to erect, for he was the man for whom it was erected. He had stolen a rifle from Mr Clagett; he had murdered a Chinawoman, valued by her owners at six hundred dollars; he had knocked down and robbed a freighter; he was a bad man, and he must die. Hynson did not like it at all; but forced to comply, he took his position and was soon dangling.

Near the eastern boundary of Montana in September 1868 Harvey Wentworth, Andy Wineniller, and William Thomas were arrested for horse-stealing. Those who knew the men could scarcely believe them guilty; nevertheless the first two were hanged. Thomas escaped.

Some time during the winter of 1869–70 J. M. Wood, who had been tried and condemned for the murder of Thomas J. Duffey and pardoned by the governor, was hanged by the people of Lewiston. The jail at Diamond City was forced the night of March 12, 1870, and W. C. Patrick, confined for the murder of John Benser, was taken thence by a committee of citizens and hanged.

I will now give the proceedings of a popular tribunal which for coolness and precision of judgment can but recommend itself to all lovers of justice. Its occurrence was during the latter part of April 1870. Even at this comparatively late day the people of

Montana seemed to regard this method of administering justice as the natural and proper way, being more sure, speedy, and economical than courts of law, and in the main dealing more even-handed justice. The place was Helena, never without a thoroughly organized and efficient committee of vigilance, and which by this time had had much experience.

George Lenhart, an old man, useful, respectable, and kind-hearted, was found by two travellers near Helena, on the morning of the 28th of April, lying insensible in the road, covered with blood. The sheriff was notified, and medical aid provided, though slight hopes were entertained of his recovery. Regaining consciousness, the old man stated that as he was riding homeward the night previous he was overtaken by two horsemen, one of whom shot him in the thigh with a pistol, and when he had fallen from his horse beat him on the head to insensibility. Then when they thought him dead the two men rifled his pockets of two hundred and twenty-five dollars; and there he had lain all night. Then he described the appearance of the men and the horses they rode. Soon it was ascertained at the livery-stable that two men had engaged horses shortly before the attack, which they had mounted and ridden in that direction. After due search two persons corresponding to the description given by Lenhart and by the stable-keeper were arrested and lodged in jail. Their names were Joseph Wilson and A. L. Compton. The men and the horses were then taken to the house where Lenhart now lay. One of the men and one of the horses he recognized; the others he could not positively identify.

On the evening of the 29th the citizens held a meeting to talk the matter over. There was little doubt by this time as to the guilt of the prisoners. A good man long and favorably known among them had been villainously assaulted. The law was tedious, expensive, and uncertain. Lenhart might recover, and court proceedings thereby become obtuse. Three

thousand or four thousand dollars could easily be spent in the trial of these men. If cleared, any one of them might be their next victim; if found guilty, and Lenhart should recover, there was little probability they would be condemned to death, in which event three or four thousand dollars more might be spent feeding, clothing, lodging, and watching them during confinement. The men were not worth it. They were not citizens of that place accused of crime, but they were birds of prey, vultures, flying hither and thither, circling round and round, hungrily watching an opportunity to dart upon the defenceless. That they were robbers and murderers was certain, or at all events could easily be made certain. It was of no consequence at all to minds tempered like theirs whether Lenhart lived or died; these men were murderers, and very brutal ones, whether he recovered or not. It was well enough for the law with its mountains of precedents, its profounder insight into this and that, to distinguish between killing a man very dead or only killing him a little, if it wished. For them, law and learning to the contrary notwithstanding, it was enough to know that a citizen had been shot, beaten senseless, and robbed; to know that the persons doing it were worthy of death, were not worthy of long and expensive talk about it. Thus argued the meeting. And the more these coarse practical brains revolved the matter, the more sure of right their owners were.

They would sleep on it. The meeting adjourned to ten o'clock next day. An hour before the time a thousand men had gathered at the court-house, which was the place appointed. The assembly was called to order and Harvey English appointed to preside. Mr English stated the purpose of the meeting in a somewhat lengthy speech, as every man knew what he was there for. He rehearsed the circumstances of the old man's treatment, and stated that the perpetrators of the deed, if found, should be punished.

Suspicion pointed at that moment to two men lying in the jail, and in order to avoid the law's delay and uncertainty, he proposed that the citizens should relieve the law which they had made, and the officers of the law whom they had appointed, from the burden and responsibility of trying these men, and that they should be brought before a bar of the whole people, that they should be impartially tried, and if found guilty, executed.

Thereupon the speaker took his seat, which consisted of a chair on the landing of the court-house steps. There was not the slightest excitement visible anywhere; all was as quiet and orderly as at a camp-meeting. A well known merchant of the town lifting his hat then moved that a committee or jury of twenty citizens be appointed to obtain evidence, to listen to accusation and defence, and declare to the assembled people the guilt or innocence of the persons charged with the crime. The motion passed; the committee were chosen, and retiring to a room began at once their task. They appointed a marshal, Joseph Woolman, and a police force to wait upon instructions. Two witnesses, J. Lowry and W. B. Morris, who accompanied the prisoners to the place where lay Lenhart for recognition, were examined; then the stable-man, and after him many others.

Up to this time the two men Wilson and Compton lay in jail unmolested. Now the committee having need of them ordered their officers to produce them one at a time. The marshal detailed a *posse* of men, and waiting upon the sheriff made known to him the will of the committee. The sheriff refused obedience. Meanwhile Wilson sent word to the committee, saying that if they desired it he would make a statement and throw himself on their mercy. The marshal increased his *posse* and demanded from the sheriff the prisoners. Again he was refused; whereupon the sheriff and his deputies were seized and search made for the keys. They were not on the person of any,

but were soon found in the jailer's room. The officers of the law were then locked up in a room by themselves, and a guard placed over them. The prison door was opened, a double line of citizens formed from the jail door to the committee room, and Wilson was brought forth. He expressed his readiness to make a full confession; but as he stated he should implicate others, the committee ordered all spectators from the room. Wilson then told everything, entering into particulars of that and other crimes not necessary here to repeat. Next Compton was brought before the committee; and in short the guilt of the two men was clearly proved. They confessed to everything, disclosed the stolen money, and requested a priest. There was no need of further deliberation; the committee presented themselves before the assembly, and one of their number, Mr Lawrence, read the following verdict: "The committee to whom was referred the charge against Wilson and Compton report that they find, from the evidence and the confessions of the parties, that on the night of the 27th of April 1870, in the county of Lewis and Clarke, A. L. Compton and Joseph Wilson shot, with intent to kill, George Lenhart, and then and there robbed him of one hundred and ninety-three dollars in currency and about two ounces in gold-dust."

At this juncture the district judge appeared before the assembly and requested to be heard. Permission being granted, he entered a strong protest against popular interference with the civil authorities. In this instance particularly, he said, these unlawful proceedings on the part of the people were uncalled for and inexcusable. There might be conditions under which popular administration of justice would seem warrantable, but such conditions did not here exist. They had courts well appointed and competent; their prison was secure. Such conduct was a reflection not only on the integrity of their officers, but on their willingness to abide lawful government. The judge

was listened to patiently and respectfully. He was a good man enough, but they had heard similar arguments fifty times before. Promises were fair; performance slack. There was something radically wrong in the system that failed so signally to punish crime, and to protect life and property. Statutes, constitutions, and courts were doubtless all very well, but they could not sit calmly under the shadow of such paraphernalia and see good men shot down and robbed upon the highway day after day and year after year. All they proposed to do was the law's duty. Experience had taught them if they wanted a thing done, to do it themselves; if not, trust it to the law.

Finally the vote was put by the chairman: "What shall be done with the prisoners?" "Hang them!" was the response. Again and more carefully the question was put: "Is it your decree that the prisoners, Joseph Wilson and A. L. Compton, shall be taken to Pine Tree, in Dry Gulch, and there hanged by the neck until they are dead?" "It is; that's the verdict!" came from almost every person there present.

It was now half-past two. A motion prevailed that the prisoners be given until four o'clock to prepare for death, at which hour their execution should take place. Throughout the entire proceedings there was manifest the utmost decorum, and even solemnity, among the crowd, which had now swelled to three thousand souls. At no time during the day was there any loud talking, boisterous demonstration, or bravado; even the coercion of the sheriff and his deputies was unattended by violence. Their duty compelled them to resist, yet they knew resistance to be useless.

At the hour appointed the famous gulch presented the appearance of a vast amphitheatre. The sides and hills adjacent were dense with people on foot, on horseback, and in carriages. The town was deserted. At half-past four the two men were taken from the room in which they had been confined and placed in a wagon.

Father Immode sat beside Compton, and the Reverend S. G. Lathrop accompanied Wilson. The doomed were calm, and apparently intent on gaining if possible the future salvation promised. There was that about the whole proceeding impressive, awe-inspiring. A stranger fresh from the fossilized formalities of staider parts could scarcely believe this to be what was so hooted as mobocracy, lynch law, the work of the infuriate rabble. Nor was it. It was the deliberate expression of sober popular will, as deliberate and sober as ever citizens displayed in the performance of their duty. Under the shadow of the fatal tree the wagon halted. The noose was adjusted; the ropes swung; prayer was said; the horses started, and all was quickly over.

Two hundred of the men of Bozeman, Montana, about eight o'clock on the evening of the 1st of February 1873 proceeded in a body to the county jail and demanded from the sheriff two prisoners called Steamboat Bill, that is to say John W. St Clair, and Triplett, the former having wantonly shot to death a Chinawoman, and the latter having stabbed to death a saloon-keeper. The sheriff refused. The people proceeded to break open the jail door, and the sheriff hurried off to Fort Ellis for troops to slaughter the citizens slaughtering the imprisoned slaughterers. Killing was king at Bozeman. The commandant gave the sheriff a squad of soldiers, but luckily for the soldiers they did not arrive in time to be killed by the people, as the hanging was all over before they came up. The swinging carcasses of his whilom companions were pointed to one Scotty, and he was told to leave. He left. Triplett was an old fisherman who brought trout from the Yellowstone. Entering a saloon one day and taking a drink he walked off without paying for it; the keeper followed him, whereupon the ancient fisherman turned and stabbed him.

The *Montana Mountain* of the 17th of June 1875 is responsible for the following:

"The spirit of the early days has not yet died out in Montana, but once in a while manifests its liveliness even in these slow-going times. The other day in the lively little mining-camp yclept Trapper City the report of several pistol-shots fired in rapid succession spread consternation among the peaceful inhabitants of that quiet burg; and the rumor that the village had attained to the dignity and honor of a 'man for breakfast' soon attracted the major portion of its denizens to the place whence the sounds proceeded. The excitement was raised to fever-heat when on entering the house a man was discovered lying on the floor weltering in a pool of blood which had trickled from his right ear, and breathing heavily, as though in mortal agony; and in one corner of the room stood a man with a brace of navy six-shooters in his hands, and glaring upon the crowd like a hound at bay. Of course the situation was comprehended in a moment; a horrible murder had been committed; the bleeding victim lay in the throes of death upon the cabin floor, and his murderer stood in the corner prepared to deal death and destruction upon the assembled crowd. A cry for vengeance arose from a score of throats, and some essayed a movement upon the man in the corner, when the 'navies,' brought to a horizontal position upon a level with their eyes, warned them that such a proceeding would be attended with some danger, and they prudently retired. After a little, one of the crowd was induced to see if anything could be done for the dying man, and approached him for that purpose, when the man in the corner yelled out, 'Get out of that, or I'll blow the top of your damned head off! That's my meat!' and as he spoke he emphasized his remark with a shot from the six-shooters. The humanitarian stood not upon the order of his going but lit out with remarkable celerity, and as he made rapid transit through the street he was saluted by the confederates of the murderer with a volley of pistol-shots which made him think a battle of artillery had been turned loose upon him, and lent wings to his flying feet as he departed from such uncongenial scenes. By this time a battery of pistols was unmasked in the vicinity of the murder, and he saw unless he got out of that he would be a riddled member of the community, and, with levelled pistols, made a dash for life and liberty. The crowd gave way before the deadly-looking weapons, but a dozen pistols were discharged at him as he rushed out of the house and succeeded in gaining the cover of a friendly stump, where he turned and discharged his weapons with such rapidity that the crowd scattered with an alacrity that denoted a positive dislike to a salutation of that character.

"During the excitement consequent upon these proceedings the fact that a man was wounded, and perhaps dying, had been entirely forgotten, but now some of the terrified citizens turned their attention to his necessities. Messengers were despatched for surgical assistance, and some went into the house to render aid to the bleeding victim of ruthless murder. He was still insensible, but yet breathing, and the boldest of the men turned to look for the wound. It could not be found! The bullet must have entered the drum of the ear and lodged in the head, and nothing could be done until the arrival

of a surgeon. A committee were detailed to capture the murderer, and were about to start on their mission when a shout of horse-laughter from the crowd at the door apprised the excited citizens that there was something wrong. And there was. A closer examination disclosed the fact that a huge 'sell' had been perpetrated; that the wounded man was dead-drunk; that the artillery had all been loaded with blank cartridges, and that somebody was minus a bottle of brilliant carmine writing fluid, which had been adroitly used in representation of the clotted gore. The humanitarian referred to returned to town next day, somewhat the worse for wear and just a little hot over the situation; but he can find plenty of men who will wager a silver mine that he can run ten miles an hour for ten consecutive hours under similar circumstances. And now, if you want to see a genuine expression of intense disgust, ask a Trapper City man if the Vigilance Committee have caught that murderer."

Of the Cheyenne Vigilance Committee one hundred went to Dale City in January 1868 and captured and hanged three men, Keith, Shorty, and Jack Hayes. On the night of the 20th of March the Cheyenne Committee did some hanging at home; they executed Charles Martin and John Morgan. The former was one of a band of horse-thieves of which McLaughlin was captain.

The Cheyenne press approves of a new form of notification to leave introduced into the practice of vigilance by the Committee of that place. Says the *Star* of the 22d of January 1868:

"We think this public notification the best method: No person will be notified to leave this territory except through a public newspaper of this place, and if said notified parties will not leave within twenty-four hours, the Committee will no longer be responsible for their safety. George Brown, Neil Murphy, Cocke, at New Ideas, Jack Bristol, Thomas Campbell, Eugene Debonville, Frank St Clair, Al Cunningham, Slippery Bill, and Dave Mullins: The above parties will leave this territory in twenty-four hours.

"By order of the VIGILANCE COMMITTEE."

Often the danger attending border life is made the plaything of ruffians, who for the pleasure of stealing a horse or indulging in a drunken frolic will risk capture and death where the chances of escape are almost closed against them.

I have here one incident of this character, which happened in October 1877 in Wyoming, and another about the same time in Arizona: William Rowe and

a comrade named Jones, known in Wyoming for several years as desperate characters, stole some animals from B. F. Hatch, a freighter, and escaped with them. The thieves, though shrewd, were easily followed, and in recovery of the animals Jones was shot dead and Rowe captured. The Arizona tragedy was simply the result of a reckless frolic. Two noted desperadoes, Tullos and Vaughn, entered Prescott and began amusing themselves by shooting dogs and presenting their loaded revolvers at the breasts of people, threatening to let daylight through them if they opened their mouths. Then mounting horses they rode down through Montezuma street at full gallop, yelling and shooting like demons. As a matter of course, the officers and citizens were obliged to put an end to such proceedings, and in doing so one of the ruffians was shot to death and the other nearly killed.

A young fellow named Ryan, living from boyhood in Cheyenne, and one Babcock were brought into town the 8th of November 1877 for robbing the south-bound Black Hills coach almost under the very walls of Fort Laramie. Ryan had been twice in the penitentiary before, but this time he was placed there for seventeen years and Babcock for fifteen. Two Dick Turpins, Blackburn and Wall, were brought in from numerous alleged stage robberies about this time, including one where the sum of fifteen thousand dollars was secured from the treasure-box. One of them was badly wounded in his capture.

At Central City, two and a half miles from Deadwood, in the Black Hills, was located the Hidden Treasure mine. During the summer of 1877 there was trouble as to the ownership of the mine, which resulted in homicide and litigation. In November forty men were at work on one of the shafts, and failing to receive their pay they took possession of the mine. Arming themselves with Sharp rifles and revolvers, and laying in a plentiful supply of ammunition and provisions, they were prepared for a siege. The

sheriff with his *posse* on their arrival found the entrance to the tunnels and shafts barricaded, with rifle-barrels gleaming through the apertures. The mine was worked at the time by a contractor, and although the yield was good, he neglected to pay the men, who, as they claimed, took "peaceable possession of said Keats' mine in order to get our pay, which has so long been due, and of which we and our families are sadly in want."

As Sanford S. C. Dugan, a native of Pennsylvania, twenty-three years of age, was being conveyed from the Larimer-street prison in Denver, about the 1st of December 1868, to the city jail for greater safety, the wagon was intercepted by one hundred citizens and driven to a cotton-wood tree on Cherry street, where a rope was arranged round his neck and over a limb. The poor wretch begged piteously for his life, saying he had never robbed, and had killed but one man, and that in self-defence; but the proofs of guilt were so satisfying to his judges that the fatal order was given to drive on, whereat wagon and soul each wended its way, leaving the body dangling. Fifty of the most quiet and respectable citizens of Denver but a few day before this, namely on the 23d of November, took L. H. Musgrove from the jail and hanged him. The man had been in the habit of disguising himself as an Indian and committing depredations in various parts. As he was brought from prison a crowd gathered, to whom the vote was put if he should be hanged, and a unanimous 'ay' followed. He was placed in a wagon and driven under Cherry Creek bridge, where he was allowed time to write some letters, which he did, smoking a cigarette in the most nonchalant manner. When the wagon started he crouched low and made a spring in order to secure a better fall.

Two thousand citizens on one occasion, the 12th of June 1880, appeared upon the streets of Leadville to quell a miners' mob; and they quelled it.

Kid, a nice young man without, but ragged inwardly, having a fancy for drugging his victims before robbing them, with a hempen cravat adorning his neck and gentle zephyrs playing fantastically with his raven locks, as the Cheyenne *Leader* expresses it, graced a telegraph pole of Laramie in August 1868. This warning sufficed for three months only. In November H. C. Thomas drugged a man at Bryan and robbed him of two hundred and seventy dollars. At Laramie he shortly after attempted the same exploit, when he was arrested and committed to the calaboose. Five cocked pistols pointed at the keeper's head by five masked men a night or two after produced the key, which, after taking Thomas away and hanging him, they were careful to return to the jailer.

Three hundred men or thereabout comprised the vigilance organization of Laramie in the winter of 1868–9. It was no sinecure, membership of this corps. In their encounters with the desperadoes of the mountains bullets often flew freely, and death was the reward of bravery. Three men were hanged by them one day in October 1868, and before the bodies were removed a fourth was added to the ghastly row. Asa Moore, Con Weiger, and Edward Barnard were the names of the three disgraces which were raised into immortality by reason of their sins. Among others granted permission to leave that place with their feet still touching earth was Steve Young, Long Steve he was called for short; but disregarding the kindly warning he attended the elevation of the immortals blusteringly. "No damned stranglers shall drive me from town!" he said. Again he was affectionately warned to be quiet, and to depart in peace, if he didn't want the top of his head blown off. Stephen defied the vigilants the second time, and even the third; whereupon he was elevated thence by the stranglers whom he had so delighted to dishonor.

The Laramie organization in its operations extended as far as the western end of the Union Pacific Railroad.

In October 1868 they hanged five men at Gilmer, then a recent railroad town, among whom were David Mullen and a notorious villain named Morris. At Bear River a riot occurred among the graders the 20th of November 1868, growing out of the hanging of three men nine days previous. It was a war between crime, its supporters, and honesty-loving citizens. The latter armed, and the mob after burning the jail came upon them, when they fired, killing six and wounding twenty. Powers, O'Neil, and Reed were the three men hanged, and their crime was garroting and midnight robbery. O'Neil's brother was working on the grade, and he succeeded in rousing the rough element to retaliation. Patsey Marley was the leader of the rioters, and besides burning the jail they demolished the *Index* office. The fight continued until fourteen of the rioters were killed and thirty-five wounded. Only one citizen, Mr Armstrong, was killed. Mr Freeman, editor of the *Index*, against whom the rioters were incensed on account of the support given by him to the Vigilance Committee, was seized by the rioters, who demanded the names of those who hanged their friends. "Hang him!" "Shoot him!" they cried. "Death to the chief of the vigs!" But escaping through a saloon, Freeman made his way to Fort Bridger, whence troops were despatched and the riot quelled.

A pedler was robbed of some jewelry, and another person of a trunk. Suspicion fell on three ill-looking loafers, whom a company of citizens tracked to their rendezvous, where part of the plunder was found and identified. One of the trio escaped; the other two after trial were hanged at North Platte, March 1870 being about the date of their exit.

Three horse-thieves, Lewis Curry, James Hall, and A. J. Allen, were caught near Deadwood, Dakota, in June 1877 with two horses, stolen from the stage company, in their possession. The men were incarcerated at Rapid City, but at night the jail was broken open and the three thieves hanged by the people. At

Leavenworth, Kansas, in August of this same year Robert Scruggs was executed by the people for killing Jasper Oliphant and Mr Graff under very aggravating circumstances.

From the mountains and valleys to Huérfano, Colorado, in July 1877 came seventy-five men, who seized Marcos Gonzalez while on trial for the murder of the Browns, husband and wife, at a rancho near La Veta, and hanged him to a telegraph pole. During the progress of the trial the guilt of the prisoner had been established beyond a doubt, and the patience of the people being overcome by their wrath, they rose up and terminated proceedings arbitrarily.

For fifteen years prior to 1877 there had existed in north-western Illinois, south-western Iowa, and north-eastern Missouri a secret order, with numerous branches, known as the Anti-Horse-thief Association. It was no part of its purpose, except in cases of apparent necessity, to quarrel with the law; at the same time it did not profess very great respect for an institution which failed to accomplish the purposes for which it was created. Spreading into Kansas and Nebraska, the organization became a great power, with its lodges and its annual meetings, and all the paraphernalia for the detection and extinguishing of crime, not alone such as its name indicated, but of all kinds of robbery and murder. It was composed almost exclusively of respectable farmers, who stood ready, to the number of eight thousand, to hunt rascality to the death.

Many of the outrages in early times on emigrant stages and overland trains were charged to the Indians when in reality they were committed by bands of outlaws.

Troops stationed at the respective forts throughout that bleak interior were by no means fit to cope with these desperate characters. Like too many of our government servants, they were lazy, careless, indifferent, and stupid; laborious days and sleepless nights

were less attractive than comfortable quarters and regular potations. There was little glory in catching; besides, the soldiers were no match for them, either in activity or intelligence. If sheriffs cannot catch rogues, assuredly soldiers cannot. In mechanical slaughterings soldiers do very well; if well trained, they have not intelligence and will sufficient to flee danger when they see it. This is all as it should be for posts, to shoot and be shot at; but as detectives they are of little value.

Emigrants in crossing the plains were accustomed to travel in parties of greater or lesser magnitude for mutual protection. Stages frequently carried a guard of soldiers, who, together with the armed passengers, generally succeeded in intimidating attack. Under such circumstances it required a larger force than was usually found in one company of marauders successfully to rob a stage; nevertheless hundreds of stages were robbed and hundreds of emigrants were killed by these border desperadoes during the years of ox-team and stage travel.

With railroads came more refined robberies. There was the gentlemanly pick-pocket in the 'sleeper' and the cut-purse in the 'smoker;' three-card monte men entertained the passengers and added variety to the gambling games ordinarily played. The large freight traffic led to a new system of pillage, and it was found necessary for servants of the railroad companies and others to organize, and the Rocky Mountain Detective Association of 1876 was the result of this necessity. In January 1877 at Kit Carson an important arrest was made and a gang broken up which for the past year had been pillaging the trains of the Kansas Pacific Company. Not only did they break into freight trains, and abstract groceries and dry-goods, but they also stole from the cattle-cars horses and mules. A large quantity of their plunder was on this occasion discovered, and some fourteen persons taken into custody.

The affair of the brothers James—Frank and Jesse—

in Missouri, in some respects exceeds any occurrence of the kind on the Pacific coast. Beginning their career of crime at the ages of eighteen and sixteen respectively, as members of a guerilla band during the civil war, they were soon at the head of a gang waging war on its own account. After keeping the states of Missouri and Kentucky in a state of fear for five years, they escaped the several parties organized for their capture, and came to California and spent six months at the rancho of a relative at Paso Robles, recovering from their wounds. Returning to Missouri, killing three or four men at Battle Mountain, Nevada, on their way, they gathered their retainers and spread yet greater terror on every side. Every county organized a party for the capture, and large rewards were offered; but it was not until after negotiations by the authorities with one of James' band that anything was effected. In his own house at St Joseph, Missouri, in April 1882 Jesse James was shot to death by Robert Ford, who was tried for the murder, pleaded guilty, sentenced to be hanged, and was thereupon immediately pardoned by the governor and given a reward of fifty thousand dollars.

CHAPTER XXXVI.

THE POPULAR TRIBUNALS OF ARIZONA, NEW MEXICO, AND MEXICO.

Der blinde, unbeholfene Koloss, der mit plumpen Knochen anfangs Gepolter macht, Hohes und Niederes, Nahes und Fernes mit gähnendem Rachen zu verschlingen droht, und zuletzt—über Zwirnsfäden stolpert?

Schiller.

JUSTICE along the boundary line between Mexico and the United States was a scarce commodity in early times, and it is only by way of comparison that the mention of that locality has any value in this connection. The warlike and predatory tribes that infested those parts gave the thinly scattered settlers enough to do to keep their lives and property from the natives. They were border ruffians and white desperadoes who preyed alternately upon savage and civilized as best suited time and convenience; but these were killed by their enemies as one kills a wild beast when attacked, and little more was thought of it.

The southern overland stage and emigrant travel first attracted desperadoes along the line. Station-keepers were killed and plundered, and horses stolen by Mexicans and Apaches. As settlers began to occupy attractive spots and gather round them a little property, vultures white and dusky disputed for the prey. There were men enough to steal the moment there was anything to be stolen. Besides the migratory border ruffian, there were organized bands roaming throughout the entire region of Sonora, southern California, and such parts of Arizona as

offered plunder. One of these pitched camp in 1851 on the Colorado where now is Fort Yuma. There were between thirty and forty in this gang, and as this was before the establishment of the fort, they had things all their own way. Woe betide the luckless emigrant who fell into their hands. After having travelled a thousand weary miles, after having endured privations and sufferings indescribable, the attacks of savages, the buffetings of sand-laden winds, hunger, thirst, and sickness, this final scourge finished many of them.

After a sojourn here of several months some of the band began to tire of it. Times were too tame; the country was too poor for them. The road was too straight to perdition to encourage increase of travel. Sometimes there would not pass anything fit to rob for a fortnight; and these villains actually began to be ashamed of themselves, thirty and more of them sitting there and doing the work of about three.

Their leader, Glantan, was of that opinion; at all events he wanted the others to go, and encouraged them in the thought. He had a little scheme of his own which he proposed to work out, provided he did not have to share the profits with too many. He was a first-class buccaneer, a *chef-d'œuvre* of the devil, this Glantan. His plan was to start a ferry across the Colorado after the others had gone, and he did it. Then he took toll of whatever came that way. Charon was a sympathetic saint beside him. His charge for crossing was whatever the traveller had that he wanted; and the charge was the same whether the traveller crossed or not. One of his rules was never to rob a man until after he had crossed and had paid the ferriage, otherwise that would be robbing the ferry.

Early in 1852 an opposition ferry was started below Glantan's. What audacity! What villainy! True, the competition was fair; the business was conducted

on the same economical principles, chief among which was never to kill a man after robbing him unless the interests of the business seemed to demand it, the idea being that if all the men were killed there would be none left to rob. The new proprietor was a discharged soldier who had been living for several years with the Yumas. Seeing how well Glantan was doing, how easily he amassed property, the honest soldier and the simple-minded savages could not resist the temptation. Together they built the ferry and agreed upon the toll; the Yumas were to have the patron's clothes, and the soldier his money. The business was very profitable, but it interfered with Glantan's schemes, and he determined to close out his neighbor's business. Accordingly, with his usual demoniacal impudence, he went to his rival's house, and after a few friendly words deliberately drew his revolver and shot him dead. The Yumas retaliated by going to Glantan's encampment and killing him and all his band save two.

An agreement having been made between the United States and Mexico for the establishment of Fort Yuma, General Heintzelman arrived shortly after the massacre of Glantan's band with two companies of United States troops, and fulfilled the agreement. In 1853 one Hartshorn obtained a contract from the government for carrying freight to the mouth of the Colorado River. Captains Wilcox and Johnson became connected with him in the business, the result being the opening of a line of ocean and river steamers. In 1854 a store was opened on the east side of the river for the soldiers at Fort Yuma. Gradually small adobe houses were built around the store, enclosed by the rudest of brush fences, until the place assumed sufficient importance to be dignified with the name of Arizona City.

In January 1861 a Texan named Mateo, of Spanish descent, stopped one night at the camp of two woodchoppers, on the Colorado River, where he asked for

food and to be accommodated for the night: a request cheerfully complied with. In the night he arose, and taking an axe killed both the men. Then he secured the effects which he sought, and placed them in a skiff, with the clothes which he had stripped from the men whom he had murdered, and whose bodies he threw into the water. Jumping into the skiff, he pushed down the river, feeling that his detection was a most improbable thing. The following day some Indians visited the wood-choppers' camp and at once suspected foul play. Fort Yuma was on the opposite side of the river, in that vicinity, where information of their suspicions was at once brought by the Indians. Soldiers sent in quest of the murderer discovered Mateo and handed him over to the citizens, who summarily executed him. Mateo was well known in Los Angeles, having been employed as a teamster between that place and San Pedro for some months.

It was an easy and not uncommon thing for American renegades to cross the frontier, alight on a hacienda, murder the keepers, and drive the stock across the line into United States territory. Again a Mexican would engage his services to an American farmer, gain his confidence, and at the proper time his compadres would appear, kill the people, plunder the premises, and flee into Mexico. Probably the greatest depredations were committed along the Texan side of the upper Rio Grande, where were pastured countless herds of cattle, guarded by a few men, the owners living at a distance from them. Early in 1872 it was stated in congress that in Tamaulipas, Nuevo Leon, and Coahuila, cattle bearing Texan brands were sold cheaper than in Texas, it costing less to steal than to raise them. Moonlight nights were generally selected by cattle banditti, who avoided as much as possible encounters with the owners, though upon occasion they did not hesitate to murder.

While the people of the United States were urging the bitterest complaints against Mexico, scarcely any

attention was paid to the punishment of crime on the Texan side of the Rio Grande. It was stated that up to the autumn of 1877, notwithstanding the fearful prevalence of murder in that locality, not a single legal conviction or execution had taken place. Both people and property were too erratic in their habits. A drover with his stock would be here one day and a hundred miles hence a week after. Only nomadic justice and drum-head law could follow crime in such a society.

By stipulation of the extradition treaty between Mexico and the United States of the 11th of April 1881, neither of the contracting parties were bound to make delivery of their citizens to the other; so that Sonorans could kill and rob in Arizona, and Arizonians in Sonora, and escaping over the line sit down quietly and snap their fingers in the face of justice. On the 24th of December 1870 three men, Reid, Lytle, and Olliver, were murdered at Mission Camp by three Mexicans, who immediately escaped to Sonora. The 2d of January following, Governor Safford sent an agent for them. They were found without difficulty, but the governor of Sonora, Pesqueira, declined to give them up, and referred the matter to the secretary of state, who issued a circular to all prefects to have the criminals arrested if found, but not to deliver them out of their hands.

A man named Baker, living at Blue Water Station, in Arizona, drove a stage between that place and Tucson. He was a peaceable citizen, well and favorably known. On the night of the 21st of December 1871 his home was entered by Mexicans, and Baker, with all his family, massacred. The murder was discovered a few days later by a traveller, who, entering the house, saw the remains of Mr and Mrs Baker, their little son, and an infant. Immediately upon reporting the case a reward of one thousand dollars was offered for the detection of the ruffians, but the case was abandoned upon hearing that the

Mexicans had reached Sonora and were under the protection of the Mexican government.

On one occasion Governor McCormick, in speaking of the border troubles, remarked that when the Blue Water and Mission Camp murders were committed he reported the same to the authorities at Washington, saying that should such things continue there were strong probabilities that an armed force would invade Mexico and retaliate. The matter was then brought before the Mexican government, and the reply was that they were unable to guard their frontier, and that they could not be held responsible for the acts of their people across the border.

John H. Tatman was killed at Tucson in March 1867. He was for several years resident of Arizona, and at one time a member of the California legislature from Mariposa County. It was rumored that in a gambling dispute he killed a soldier, and that his own life was taken in revenge by the comrades of the murdered man.

Says the Arizona *Miner* of the 14th of January 1871 on the state of affairs at that time:

"The alarming frequency of deeds of violence in our community, and the tardiness with which justice is meted out, will, we fear, judging from the ominous mutterings of the people, culminate in a vigilance committee, the self-constituted arbiters of justice so common to the frontier, or wherever laws are not promptly and strictly enforced. Although society has been outraged, and murder and homicide perpetrated with unprecedented and reckless indifference by lawless and desperate men, yet we hope the necessity for a vigilance committee, the existence of which all law-abiding citizens must ever deprecate, may not arise."

The futile appeals made to both the Mexican and American governments for protection, and the prolonged delay in an adjustment of difficulties, compelled the citizens to avenge their own wrongs or to submit unprotected to continued outrages.

A station-keeper named William McFarland, an honest and respected man, employed at Sacaton, on the Tucson road, in March 1872 had occasion to go

through Florence and Sanford to Gándara's rancho, after leaving which he mysteriously disappeared. Search was made, and a reward of twelve hundred dollars offered for information which should lead to a solution of the mystery. The massacre of the Baker family, previously mentioned, and many other murders, stimulated the people to action. Accordingly a large party of Americans went to Gándara's to make investigations concerning the disappearance of McFarland. Upon ascertaining that Gandara was at home, Bodel, one of the party, started to go into the house, when Gándara accosted him with "*Adios!*" and drawing a concealed weapon killed him. Gándara then undertook to escape, but was riddled with balls within twenty feet of his house. The Americans returned to Sanford breathing vengeance. On the following day, Sunday, they started in pursuit of Manuel Reyes, who had threatened to kill four Americans in revenge for the death of a comrade. Reyes took refuge in a house where there were several women and children. At an early hour a crowd collected about the place and ordered all the inmates but Reyes to leave the house. As soon as the order was obeyed an onslaught was made, and amid general shooting Reyes was killed. An hour or two before, Aguilar, another Mexican, was shot from his horse. Fears were entertained of a general uprising of the Mexicans, and places of business in Sanford and Florence were closed, the citizens holding themselves in readiness to act if necessary. Governor Safford soon after made his appearance; a body of troops was stationed in the vicinity, and peace was finally restored. McFarland's body was shortly afterward found buried a few miles from Gándara's.

King S. Woolsey, whose rancho was at Stanwix Station, had a Mexican boy, whom he had brought up with the kindness of a father. A Mexican desperado formerly in his employ met the boy one day and told him he was going to the rancho to kill Woolsey. The boy replied that he would have to kill him first; and

after some further discussion the man did shoot the boy so that he died. Mexicans in Woolsey's employ caught the murderer and determined to take his life. He was guarded by his countrymen during the night. Woolsey advised them to act calmly. On the following day, August 8, 1872, the boy was buried, and the man led out and shot beside the boy's grave.

At Kenyon Station, on the Yuma road, Edward Lumley was killed on the 18th of August 1873 by Lúcas Lugas and Manuel Subiate. He was beaten, stabbed, and shot; and the frequency and brutality of these outrages induced extreme measures for the arrest of the guilty Mexicans. On the 31st of the month Lugas was found in a thick underbrush, where he was shot after a vain attempt to kill his pursuers. Subiate was also captured the same day and placed in the Yuma County jail. His denial of complicity in the murder was rebutted by strong circumstantial evidence, as he was on one of Moore and Carr's stage horses taken from Kenyon Station, and had the clothing and dog of Lugas with him. On the 8th of August four men were hanged for murders committed the previous day. This prompt and determined action of the people was necessary to save the lives and property of the scattered population.

A Mexican named Mariano Tisnado was arrested for cattle-stealing in Phœnix, Arizona, and strong suspicions were entertained that he was accessory to the recent murder of Mr Griffin. It was announced that his trial would take place the 3d of July 1873. Early that morning there was an unusual influx of farmers coming from every direction, well armed, quiet, and resolute. At six o'clock they assembled at the court-house square. Half an hour later a stranger, just arrived, observing several groups of people talking on the street-corners, stepped up to one of them and inquired, "What is the excitement?" "Nothing," was the reply, "it's all over now," at the same time pointing significantly to Monihon's corral. The inter-

locutor walked to the place indicated, and there saw the body of Mariano Tisnado suspended from the gate of Monihon and Starrar's corral, on Cortés street. The farmers had executed Tisnado, as they feared that the result of his trial would be his acquittal.

About midnight on the 3d of August 1873 a Mexican couple, Vicente Hernandez and his wife, were murdered in their home at Tucson with knives and clubs by Leonardo Córdoba, Clemente Lopez, and Jesus Saguaripa. The murderers were arrested on the following day, and a confession obtained from Córdoba acknowledging the participation of each in the deed. He also disclosed the place where the plunder was buried. The following day the funeral occurred, and so indignant were the people that after the services they convened on the court-house plaza and advised as to the course to be pursued with the murderers. The confession made by Córdoba was read in Spanish and in English to the assembly, and an expression of the meeting called for. The unanimous demand was that the murderers should be executed at once. There had been much to aggravate the people in the disregard of justice, particularly in letting murderers go unpunished. At the March session of the court two noted criminals were given their freedom, though it was well known they had taken the lives of innocent men. There was in the jail at the time of the present excitement another murderer, John Willis by name, who it was determined should be hanged with the three Mexicans. Accordingly the meeting adjourned until the following morning, August 8th, when at an early hour the jail was surrounded and the prisoners demanded. In the mean time two forked posts were planted in front of the jail door and a pole placed on them. Four ropes with nooses were then suspended from the pole. A Catholic priest was summoned and allowed sufficient time for his ministrations. The prisoners were then led forth and hanged. The report of the inquest is interesting, as

showing the feeling entertained by the community at the time:

"We, the undersigned, the jurors summoned to appear before Solomon Warner, the coroner of the county of Pima, at Tucson, on the 8th day of August 1873, to inquire into the cause of the death of John Willis, Leonard Córdoba, Clement Lopez, and Jesus Saguaripa, find that they came to their deaths on the 8th day of August 1873, about 11:30 o'clock in the morning, in the court-house plaza, in the town of Tucson, by hanging; and we further find that said hanging was committed by the people of Tucson *en masse;* and we do further say that, in view of the terrible and bloody murders which were committed by the three Mexicans named above, and the tardiness with which justice was being meted out to John Willis, a murderer, the extreme measures taken by our fellow-citizens this morning in vindication of their lives, their property, and the peace and good order of society, while it is to be regretted and deplored that such extreme measures were necessary, seem to have been the inevitable results of allowing criminals to escape the penalties of their crimes."

The grand jury in October spoke of this action of the people as having been taken at "a mass meeting of the citizens of the town of Tucson, numbering several hundred, and composed for the most part of the best and most influential citizens of the town. The hanging was done *en masse*, calmly and deliberately, believing it was for the best interests of the community at large. The verdict of the coroner's jury held on the day of the hanging accurately expresses the sense of a very large majority of our most substantial, peaceable, and law-abiding citizens."

The man John Willis, who was executed with the Mexicans, is credited with the following sanguinary exploit: One night in November 1872, at Adamsville, Arizona, Colonel Kennedy was slain by John Rogers. The body lay yet unburied when Bob Swoope heard of it. Bob was at Sanford at the time, and being a warm personal friend of the colonel, he was deeply moved on receipt of the sad intelligence. To have killed Rogers, even though he were a descendant of the martyr, would have afforded him some relief; but this being impracticable, he took a drink. Still feeling badly, he took another drink, which opened the way for a third, and soon Bob was sorrowfully drunk.

"I will go to that funeral if it kills me," said he to John Willis, whom he met while in this ultra-emotional mood.

"I reckon not," replied Willis.

"I tell you I shall go!" exclaimed Bob, waxing warm.

"Oh no you won't!" retorted Willis.

"I'll bet I do!" cried Bob, more warmly.

"I'll bet you don't!" said Willis, as he drew a revolver and shot his friend through the heart. Willis was arrested and indicted in March 1873, but his trial was postponed until May. On the 24th of the month the jury pronounced a verdict of guilty of murder in the first degree, but the sentence of the judge that Willis should be hanged was issued without naming the day for his execution, whereupon the case was appealed to the supreme court. The grand jury, reporting upon the affair, says: "After an exhaustive, fair, and impartial trial of about one week's duration, at great cost to the county and some sacrifice to the trial jurors, John Willis was found guilty of murder, and as his case had been appealed to the supreme court upon some trivial excuse, a general belief prevailed that it would end as did that of Anthony Dorman and others, and that he would eventually be set free or make his escape, to further prey upon the people, as has been the case in all other cases of murder since Tucson has been under the jurisdiction of the civil law." This is a continuation of the report previously quoted, exculpating those who at last assumed the responsibility of ridding the community of four dangerous characters.

G. R. Whisler, a man fifty years of age, keeper of Burke Station, on the Lower Gila, was murdered at noon on the 7th of July 1874 by a Mexican named Ventura Nunez. Threats had been made by border bandits to murder all the station-keepers from Gila Bend to Yuma, and the discovery of Whisler's violent death excited intense apprehension. Governor Saf-

ford inaugurated a plan, which worked very successfully, authorizing responsible parties to offer suitable rewards for the apprehension of criminals. Accordingly Woolsey, of Stanwix Station, nine miles below Burke, immediately offered five hundred dollars for Ventura Nuñez, dead or alive. Three men started in pursuit, and overtook the Mexican, who, having ridden down his own and a stage horse, was on foot. He was captured near the copper mines, sixty miles south of Burke Station, after having about twenty shots fired at him, one of which penetrated his leg. He was searched and some of the stolen property found; he acknowledged the crime, and was brought back on the 11th of December to the scene of the murder, where there was a large assembly of men from the various stations, who took the man from the authorities and hanged him. This decisive action, it was felt, would be efficacious in deterring these ruffians from the commission of such crimes, for love of life is strong within them, though they hold in light esteem the lives of others.

Oliver P. McCoy on the 3d of August 1877 near Safford, Arizona, discharged both barrels of a shotgun loaded with fine and buck shot into the body of J. P. Lewis, who was attending to some irrigating, killing him almost instantly. McCoy gave himself up, and was examined by a justice, before whom he acknowledged the crime. Next day he was to have been sent to Tucson, but that night he was taken by the people and hanged.

Nothing was created in vain; even desperadoes serve a good purpose sometimes. Along the American border during the past century they have done far more toward the execution of justice in killing each other than was done by all the law courts in the land. What a godsend it is to a community for five or six of their ruffians to kill each other, leaving only one survivor for the people to hang. On the morning of the 18th of December 1877, at Hackberry,

Arizona, Bob White attempted to shoot Frank McNiel, a stranger, after a few angry words over a trivial matter. McNiel disarmed White, and led him into a saloon to his friends, as he had no wish to quarrel with the fellow. Shortly afterward Charlie Rice, one of White's friends, approached McNiel and shot him, causing his death. The citizens turned out *en masse*, and capturing Rice, hanged him. In the mean time White, attempting to escape, was pierced with bullets and fell dead.

L. V. Grimes and C. B. Hawley, confessing to certain robberies and murders, were hanged at Globe, Arizona, by thirty citizens, early in the morning of the 24th of August 1882.

The greatest sufferers from the lax administration of justice in New Mexico were foreigners, especially citizens of the United States, against whom there was no little prejudice.

Notwithstanding the general perversion of justice in New Mexico, capital crimes were rare, though petty thefts were frequent. Doubtless fear of the savages prevented the highway robbery which so long and so mercilessly oppressed many parts of Mexico. To leave an article exposed was not safe for a moment, and though thievery was so common it was difficult to catch rogues, for few would inform.

Very different was the management of affairs under royal *régime*, as the following incident testifies: In 1815 a soldier named Cora stole a few articles of no great value from the public storehouse at Santa Fé, then in charge of Lieutenant Don Valentin Moreno. Cora was arrested, tried, convicted, and sentenced to be shot; nor did the solicitations of some of the most influential men in the province save him from death.

The insurrection of 1837 was something more than an Indian outbreak. The pueblo natives, semi-civilized when first found, were but little lower in the

scale of humanity than the Mexicans themselves. The territorial government, by act of the Mexican congress, had just been erected into a departmental government, and Perez, in January 1837, appointed governor. His rule was regarded by the Pueblos as arbitrary and unjust. Among other oppressive measures, a tax had been laid on tobacco; and further contemplated impositions were feared.

In July 1837 the Pueblos rose in rebellion, San Juan taking the lead. About the beginning of August a great multitude gathered at La Cañada, among whom were the chiefs and principal warriors of the Pueblos. Perez issued orders for the mustering of the militia, but not more than one hundred and fifty could be found. With these he marched against the insurgents, but was repulsed, many of his force going over to the enemy. With about twenty-five officials and friends he fled southward, fearing to return to Santa Fé; but they were overtaken and driven back to the suburbs of the city, where Perez was killed. Jesus María Alarid, secretary of state, and Ramon Abred, prefect of Rio Arriba, were also slain and their bodies mutilated.

Anarchy followed. At a mass meeting held at Santa Fé, resolutions opposed to the Perez policy were passed and a provisional government adopted. Two thousand insurgents pitched their camp before the capital the 9th of August, and the horrors of a *saquéo* were feared, but no outrage was attempted. Many of the insurgents remained in and about the city for two days, during which time one of their leaders, José Gonzalez of Taos, honest but unlearned, was chosen governor, and Antonio Domingo Lopez lieutenant-governor.

At Tomé on the 8th of September one Manuel Armijo pronounced against the insurgents. Men gathered to his standard; and after having proclaimed himself governor, he marched, the 13th of September, with a large body against the insurgents,

primarily the Pueblos, but now increased by discontented white men to a formidable organization. Gonzalez prepared for battle, but persuaded by a priest to capitulate, he was first confined, and on the 25th of January 1838 was hanged at Santa Cruz with Lopez. Armijo for his service and successes was confirmed as governor by the authorities at the City of Mexico.

This Armijo, in common with rulers and magistrates of his day, employed singular methods in determining guilt. In January 1840 two foreigners returning from the mines to Santa Fé had the misfortune to kill a Mexican lad by the accidental discharge of one of their guns. Carrying the body into town, they at once reported the circumstance to the authorities. The chief alcalde consulted with Armijo as to what should be done. After due deliberation and with a little gravity, although there had been no examination or form of trial, it was determined that the strangers should be imprisoned for murder and there kept until they should prove their innocence. In time the absurdity of the thing became apparent to the people, and their manifest disapprobation at length induced the judge and governor to give the men their liberty.

The manifestation of feeling against foreigners was frequent, such as the capture in 1841 of the Santa Fé expedition, the beating to death in open day of a dumb creole at Taos, the entering and robbing of Rowland's store by a mob led by the alcalde of San Miguel. At the same time no little excitement prevailed at Santa Fé, where an attack was made on the United States consul, Manuel Álvarez. Backed by a band of *sans-culottes*, one Martin, nephew and confidential agent of the governor, approached the consul's house with murderous intent. Drawing a large knife, he told the crowd to keep back until he called them; he entered the house secretly and attacked Álvarez, cutting him severely in the face. The consul

narrowly escaped with his life, and the nephew was promoted for his pains.

During the spring of 1847 the Santa Fé roads were infested with Pawnees and Comanches, who fearlessly attacked the government trains, beat down the escorts, drove off the cattle, and often killed many people. One of these cases occurred near the Grand Arkansas on the 22d of June, when a large body of natives attacked a returning government train, overpowered the teamsters, and captured eighty yoke of oxen. Lieutenant Love's convoy, with three hundred thousand dollars in specie, was attacked four days after near the Arkansas by about five hundred native warriors, who took one hundred and fifty yoke of oxen. Pursued by twenty of Love's men, they led them into ambush and cut off their retreat. A fierce fight ensued, but the white men finally forced a passage and made good their retreat. The natives lost twenty-five killed and many wounded, while the killed and wounded of the white men numbered eleven.

On the 28th of June 1847 Lieutenant Brown and privates McClanahan and Quisenbury were sent with a Mexican guide in pursuit of some Mexicans who a day or two before had stolen the horses belonging to Captain Horine's troop near Las Vegas. After several days had elapsed without information from the party, it was conjectured that they had been murdered. This supposition seemed confirmed by a statement made to Major Edmondson by a Mexican lady, who affirmed that three Americans and one Mexican had been killed near Las Vegas and their bodies burned. Three Mexicans, whose appearance had excited suspicion, were brought into camp, and an attempt made to obtain information on the subject from them; as they would make no disclosures, one of them was hanged until nearly dead, when on being lowered the third time he admitted the truth of the Mexican lady's statement. Major Edmondson at once ordered a detachment of twenty-nine cavalry and thirty-three

infantry with one howitzer to march at once on Las Vegas. A charge was made, in which ten Mexicans were killed, fifty taken prisoners, and the remainder driven from the place. Tried by drum-head court-martial at Santa Fé, sentence of death was pronounced upon six of the prisoners, and on the 3d of August in presence of the army they were executed.

After the defeat of the Mexicans, search was made for the remains of Lieutenant Brown and his companions. The body of the former was found concealed among the rocks; it had not been burned out of reverence for the cross which lay upon the breast. The ashes of the others were discovered, and their weapons and clothes found in different houses. The larger portion of the town was burned by the soldiers, as were also the mills belonging to the alcalde, who was known to have sanctioned the murder of Lieutenant Brown's party.

There were on the 19th of January 1847 two Pueblos confined in the prison at Taos, and, as their towns-people thought, unjustly. At all events they determined on their release, and a deputation was sent from their village, twelve miles away, to Taos to make the demand. Lee, the sheriff, saw the approaching storm and recommended tolerant measures, but the prefect, a Mexican, forbade him to release the prisoners. Thereupon the deputation killed both sheriff and prefect, and opened the prison doors.

The villagers then marched to the house of Governor Bent, who arose, dressed quickly, and sought to gain the street, but before he could escape he was shot. District-attorney Leal was likewise shot; also the son of Judge Baubien. The same day seven Americans were killed at the Arroyo Hondo, two at the Rio Colorado, and civil war ensued.

At the time of the murder of Governor Bent, general alarm spread through all that section of country. The outrages that preceded and followed

added proportionate anxiety. A man of wealth and prominence named Turley was warned that his life was in danger. He listened fearlessly to the intimidation, his unsuspicious nature refusing to believe that malice could be cherished toward him. Generous with his wealth, he never refused a Mexican who applied to him for aid; the hungry were supplied from his granaries, and poverty was relieved by his bounty. Turley owned a mill and distillery adjoining his house. At the solicitation of his men they were permitted to fortify themselves against possible attack, their little garrison being composed of eight white men, Americans, French Canadians, and Englishmen, well supplied with arms and ammunition.

These precautionary measures were scarcely completed before a large force of Mexicans and Indians appeared and demanded Turley's surrender, at the same time guaranteeing the safety of his life. Turley refused to surrender his house or his men. A short consultation between the Mexicans followed this reply, and then they commenced an attack. Their force was composed of five hundred men, with numbers hourly increasing. Secreting themselves among bushes and crouching behind rocks, they kept up an incessant fire. The Americans had blockaded and loop-holed their windows, and with their rifles they now picked off every man who in the least exposed himself. Night brought quiet, but the next day the fight was vigorously renewed. In the mean time some of the Mexicans had gained possession of the stables separated but a few feet from the main building. An attempt was made to cross the narrow space, but when it was discovered Turley's men quickly prepared for them. A Pueblo chief attempted to cross, but a shot dropped him in the centre of the space. A warrior darted out to recover the body, but another shot stretched him beside his chief. Two others met a similar fate; at last three rushed to the spot, and had seized the body when three sharp cracks from as many rifles added

their lifeless bodies to the number already stretched upon the ground.

Unerring aim had become a necessity, for their ammunition was much reduced. The attack was now renewed more fiercely; the assailants poured in a volley, and two of the defenders fell mortally wounded. A still greater danger now threatened them; the mills were discovered to be on fire, and the flames must inevitably communicate with their own building. Twice they succeeded in extinguishing the fire, only to see it break out elsewhere. Though the mill was but partially burned resistance was useless, but rather than surrender they determined if possible to effect their escape during the night.

At dusk John Albert and a companion, two of the besieged party, rushed suddenly from the building and discharged their rifles at the foe. Albert then threw himself upon the ground, and crawling beneath a fence, remained there until dark, when he started for the Greenhorn, undiscovered by the enemy, and reached the place in an exhausted condition. His companion was discovered, stabbed with knives and lances, and shot.

Turley succeeded in eluding the enemy and reached the mountains in safety. There he met a Mexican, who expressed great commiseration, and sympathizingly offered him assistance if he would remain concealed until his return from a certain place where he would go for horses. The Mexican then went directly to the mill and reported Turley's place of concealment. A party of Mexicans at once started out, found Turley, and shot him dead. The remainder of the number who had so valiantly defended Turley and his premises succeeded in reaching Santa Fé in safety. The mill was pillaged by the Mexicans, and a large amount of money taken.

At a fandango in Socorro some ruffians in 1851 killed Assistant-quartermaster Clark of the boundary commission, stabbing him with bowie-knives. An ar-

rest was made of eight or ten persons thought to be implicated in the crime, who were tried before a jury composed of six Mexicans and six commissioners. The trial lasted two days, resulting in the conviction and execution of three of the criminals. A reward of four hundred dollars was offered for the arrest of Young, the leader of the band, who was soon captured, and after a trial and a full confession of his guilt was hanged upon the same tree which had been used for the execution of his accomplices.

Of all the towns of New Mexico none enjoyed a greater notoriety for low morality than Manzana, where about the year 1853 appeared to rendezvous desperate men and vile women of every description.

The following incident, illustrative of the cunning of the gentle savage, occurred at Fort Defiance in 1854. The Navajos had murdered a man near the fort, and at once an imperative order was sent them by Major Kendricks to deliver the murderer to him. After a little parleying, the chiefs saw that no compromise could be effected, and consented to the hanging of the murderer, only stipulating that they themselves should be permitted to execute him. This was allowed. At the hour of execution the troops were drawn up in line and witnessed the fulfilment of the agreement, as they supposed; but some time afterward the revelation was made that instead of the murderer a Mexican captive had been executed.

Among stock-raisers inhabiting the western territory the depredations of Comanche and other cattle-stealers were conducted on an extensive scale. It was estimated that one hundred thousand head of cattle had been stolen from the north-western part of Texas between 1853 and 1873 and that they had been sold in New Mexico. A rich stock-raiser in Palo Pinto having lost heavily in this way, followed the natives, and at great trouble and expense recovered several thousand head from New Mexico. He

reported a great many persons in the territory as directly and indirectly abetting this traffic, by exchanging arms and clothing for stolen cattle. The commissioners of the Mexican frontier complained that cattle stolen from that country were also in New Mexico.

Great as was the sorrow of the times in these localities, when we read in the Galveston *News* of May 1875 that in three counties of Texas in a single day seventeen men were arbitrarily executed, we may hide our modest heads that our annals show so few such takings-off.

The cries of "Death to the Gringos!" and "Viva Mexico!" were raised by the Mexicans in the towns of Isleta and Saullizarco, on the Texan border, the 6th of October 1877. Four hundred armed Mexicans, one hundred of them from the Mexican side of the river, took possession of El Paso, Texas, claiming that territory as a part of Mexico. Judge Charles H. Howard was made prisoner by the mob and bound with ropes. The seizure of the officials of the entire county was effected. General Escobedo was tried at Brownsville, Texas, for violation of the United States neutrality laws, but was acquitted, as it could not be proved that the armed men in camp with him actually intended to invade Texas. Lieutenant-general Sheridan, in his annual report dated October 27th, giving a detailed account of border troubles, said that cattle ran loose by thousands on the American side of the river, and Mexicans and Indians used to come over and steal them.

Nowhere have I seen more boldly displayed the irony of Christian outlawry than on this Texan frontier, where drinking, gambling, cattle-stealing, duelling, prize-fighting, camp-meeting, highway-robbery, throat-cutting, promiscuous shooting, and psalm-singing are so simultaneously rampant, where representatives of Christ and Belial turn bruisers and batter one another in most ungodly fashion, where piety and infernal dis-

cord are so indiscriminately mixed as almost to defy identification. Among specimens of nineteenth-century United States ignorance, of blind brutal bigotry, the sentiment contained in the following notice found nailed to a tree growing out of the holy soil of Texas, where a man was whipped in the name of Christianity, assuredly should be placed first: "This is to certify that on Saturday night, the 6th of October 1877, the Reverend Doctor Russell was called to see a mover's wife, camped at this place, and on the doctor's arrival three other men came out and captured him, and hit him a hundred licks with a leather strap, and let him loose on condition that he must not lecture or debate on infidelity any more in this country. Now a word to Nunnely, Posey, Marshall, and in fact to all the leading men of the infidel club: If any of you take his place we will burn you out of house and home, and hang you until you are dead. If any man in this county is injured on account of what has been done, we will burn you all out. We have got fifty men to back us. Gents, we mean business; infidelity has got to stop in this county as well as stealing."

Returning for a moment to California, as a fair and truthful historian I cannot close this volume without laying before the reader the credit side of law. We cannot deny that law does something; let us see what it accomplished during our earlier years, that the charge of prejudice may not lie at our door. In God's name let us have the truth. Let us frankly acknowledge our indebtedness to laws, law courts, judges, and lawyers, for what they have done and are doing for us.

But first let us glance at what the Hispano-Californians did before the institutions of the great republic were thrown over the country, and compare their doings with ours; for we are inclined to regard our ways superior to theirs.

The legal executions in California prior to 1847

were as follows: First, under the Spanish administration of Felipe de Neve, at San Diego April 11, 1778, Aarán, Alcuirín, Achíl, and Taquaqui, Pamò chiefs guilty of a conspiracy against the lives of the whites, and who in consideration of future good conduct had in 1776 been pardoned after conviction of participation in the revolt of the previous year, were by order of Comandante Ortega shot to death. During the administration of Diego de Borica, at Santa Bárbara January 10, 1795, Ignacio Rochin, murderer, was shot to death by sentence of the *real audiencia* of Guadalajara. A woman who was his accomplice was sentenced to six years' domestic service without wages.

Under José de Joaquin de Arrillaga, at Santa Bárbara on the 11th of February 1801 José Antonio Rosas, native of Los Angeles, soldier of the Santa Bárbara presidial company, eighteen years of age, was condemned for the crime of bestiality with a mule on the 20th of June 1800. He was sentenced by the *auditor de guerra*, in accordance with royal ordinance, to be hanged till dead, and his body then to be burned with that of the beast. The sentence was confirmed by the viceroy. As there was no hangman at hand the young soldier was shot, and the sentence otherwise carried into effect.

Under Mexican rule, during the administration of Luis Antonio Argüello, at Monterey the 6th of February 1824, Pomponio, neophyte of San Francisco mission, a noted outlaw guilty of many murders, rapes, and robberies, was shot to death by order of court-martial. At La Purísima Concepcion, March 26, 1824, seven Indian rebels, Baltasar, Pacífico, Estévan, Gines, Antonio, Felipe, and José Andrés, were shot to death by order of the court-martial for the murder of Dolores Sepúlveda and three companions.

Under the administration of Manuel Victoria, at Monterey April 26, 1831, Atanasio, an Indian ser-

vant eighteen years of age, was shot to death in accordance with the sentence of the *asesór*, confirmed by the governor, for stealing a gross of military buttons. He was suspected of having robbed the storehouse on various occasions, probably to the aggregate amount of two hundred and fifty dollars, otherwise his punishment for the theft of the buttons might have been less severe. José Sagarra, ex-privateersman of Buchard's expedition of 1818, and Simon Aguilar, Mexican servant, were shot to death in Monterey May 28, 1831, for stealing articles of insignificant value from the warehouse of Carmelo Mission. At San Francisco in 1831 Francisco Rubio, *alias* El Coyote, a soldier of the San Francisco presidial company, was shot to death for outrage and murder committed on a little girl. Shortly after his execution it was clearly proved, as some say, that he was innocent of the crime.

At Monterey April 7, 1840, Diego Féliz, soldier, was shot for the brutal assassination of his wife. He was executed by order of Castro, approved by the governor, three hours after he had committed the bloody deed. In March 1841 three Mexicans, Valencia, Linares, and Duarte, were under sentence of death at Los Angeles for robbing and murdering the German trader Nicholas Fink. Meanwhile the vagabond class had broken into and robbed a tavern, and committed other violent acts. Thirty-three citizens petitioned government for a prompt execution of the trio to serve as an example. On April 7th they were executed, a strong guard of citizens remaining under arms for three days to repress any outbreak in favor of the prisoners. Although the excitement was strong no disturbance occurred. It was through the exertions of foreign residents at Los Angeles that these men were brought to justice. They confessed their guilt in open court. The judge of the first instance condemned them to death, and Governor Alvarado approved the sentence, and ordered the comandante at Santa Bár-

bara to carry the same into execution within three days after the receipt of the order. De Mofras says that the foreigners intimated to Alvarado that if the government did not execute the sentence the people would; but what this dogmatic Frenchman says on any subject must be taken *cum grano salis*.

The *juez de primera instancia*, Manuel Dominguez, informs the prefect of the second district that on the 7th of July 1842 Samuel Fagget was shot to death. Manuel Gonzalez, a Peruvian, and sacristan of the presidial chapel, was shot at Monterey July 27, 1842, for killing an Englishman. He was sentenced by the court of first instance; the sentence was confirmed by the superior tribunal, and its execution ordered by the governor.

During Pio Pico's administration Juan de Dios, an Indian, formerly neophyte of La Soledad Mission, murdered two women and a servant in the suburbs of Monterey. In the absence of all civil authorities, Alvarado, Comandante de la linea del Norte, submitted the matter to a *junta de oficiales*, and the murderer was shot to death July 13, 1845. Under the administration of R. B. Mason, Pedro Gomez, who had murdered his wife, was shot at Santa Cruz August 16, 1847, having been tried by the alcalde and a jury of twelve men.

Drop the curtain. Let a lively interlude be sounded; then raise it again.

It was a proud day for the law, the 10th of December 1852. True, it was only a Spaniard who was hanged, José Forin, and for the murder of a Spaniard, but then it was the first legal execution San Francisco had ever seen, and the young metropolis was very proud of it. High on Russian Hill the gallows was erected, on the topmost pinnacle, where all the town might witness the triumphant ceremony, though at the suggestion of certain ones who had no eye for the beautiful in public strangulation, the machine was moved westward over the hill a little way, so that the per-

formance might be conducted somewhat more modestly. About half the town turned out; so new a thing it was for the law to punish a murderer. The poor prisoner thought it unfair to begin with him; the law had liberated so many hundreds of worse men; he thought the law was the friend of criminals, and though he protested his innocence to the last, the law was brave and hanged him up right manfully. It was a glorious sight! True, the poor fellow was a stranger, without money, friendless, and unable to speak the English language. I did not say that for these he was hanged; true, hundreds more deserving of his fate stood gaping by, thinking how awful it was, how righteous the law that punished him who sinned—and was caught at it. It was a happy sight, I say, this hanging of the moneyless, friendless Spanish stranger; it set so splendid an example to other poor friendless strangers of every nationality. Of course, to wealthy and respectable criminals the spectacle taught nothing; but they did not dislike it. Sweet to those who escape just punishment is the just punishment of others! It was a gala day in San Francisco, this 10th of December 1852. Russian Hill was thronged with a great concourse of people. The Marion Rifles and the California Guard were out, flaunting their gayest attire. The streets were lined with carriages; husbands brought thither their wives, and mothers their children, to witness the rare entertainment. Three or four clergymen with attendant interpreters assisted at the exodus of this soul; there must be an example, but let it be made *suaviter in modo*. Finally, with arms pinioned, legs bound, and black cap drawn over the face, a blow from a hatchet cut the rope that held in place the platform, and the friendless unfortunate dropped into eternity.

Not until a year and a half after was there another legal execution in San Francisco. This made punishment by law very infrequent where crime was so common—not a single legal execution during the first five

years of law and government round Yerba Buena Cove, and then so long an interval without another warning. It was no wonder assassins regarded killing free to all. July 28, 1854, was the date of the second extreme example. William B. Shepherd worked for Henry C. Day, and was betrothed to his daughter. Day withholding his consent to the union, Shepherd stabbed him to death, and was hanged for it in a little valley near the Presidio, ten thousand persons being present as spectators. Another long interval, and early in 1856 we find Nicholas Graham hanging in the jail-yard for killing Joseph Brooks, a fireman on a bay steamboat. Nearly two years now elapsed before another legal execution, which was that of Henry F. N. Meuse for the murder of Peter Becker. December 10, 1858, was the date of this last punishment. The machinery now worked a little more evenly. Tipperary Bill, whose true name was William Morris, was hanged the 10th of June 1859 for the killing of Richard H. Doak. The 30th of September 1860 James Whitford was hanged at the county jail for the murder of Edward Sheridan. Then follow Frank Bonney and Albert Lee of the same year; John C. Clarkson in 1861; Barney Olwell and Antonio Sassovich, Thomas Byrnes, and Chung Wong in 1866; John Devine, surnamed The Chicken, and Charles A Russell in 1873; and Chin Mook Sow in 1877. Sixteen executions in thirty years, dating from 1847, the opening year of Yerba Buena's aspirations. These, with the four hangings by the Vigilance Committee of 1851, and four by that of 1856, comprise the catalogue. Millions of money had been paid by the citizens to keep running criminal courts and police regulations these thirty years, and hundreds of men were all the time at large whom the law pronounced guilty of death, and only sixteen capital punishments! Says the Sacramento *Union* of the 28th of May of the citizens composing the Committee of 1856: "They have calmly stood by and seen and heard of

some fourteen hundred murders in San Francisco in six years, and only three of the murderers hung, under the law, and one of those was a friendless Mexican."

I have given in this volume many examples of Popular Tribunals, but the half has not been told. It is safe to say that thus far in the history of these Pacific States far more has been done toward righting wrongs and administering justice outside the pale of law than within it.

Out of five hundred and thirty-five homicides which occurred in California during the year 1855 there were but seven legal executions and forty-nine informal ones. Of the latter ten occurred in the month of January, not one of which would have been consummated if left to the machinery of law. So it was in Nevada ten years later: to one hundred and fifty homicides there were but two legal executions. It was the Augustan age of murder.

Works 37

POPULAR TRIBUNALS

34431

BY

HUBERT HOWE BANCROFT

IN TWO VOLUMES

VOL. II

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POPULAR TRIBUNALS.

CHAPTER I.

BALLOT-BOX STUFFING.

When bad men combine the good must associate; else they will fall, one by one, an unpitied sacrifice in a contemptible struggle.

Edmund Burke.

THIS volume has been reserved for the presentation of the acts of the Grand Tribunal organized by the citizens of San Francisco in 1856.

Since the organization of 1851 a change has come over our youthful city. In the business streets are found evidences of a permanent progressive commonwealth; in the suburbs substantial houses to some extent have taken the place of white tents and board shanties. Throughout the state the change is little less marked. The entire population do not now as formerly wander from place to place in their hunt for gold like the red man in search of food; but civilized industry, agriculture, manufactures, and the gentler arts of domesticity have taken their place beside commerce and mining, and men plant as if intending to await the harvest. Meanwhile hope assumes a rosy hue. That first receding wave of fortune which leaves heart-sinking disappointment—ah, who that has felt it can ever forget it!—incident to failure to secure wealth within the first three months of venture is returning, freighted with nobler than gold-digging resolves. The skies of California, how inspiring they

are; the haughty sun, how kind it has become; and how radiant the vernal hills, the sparkling streams! The bellowing billows of ancient ocean, so lately sounding despair, now break upon the expectant shore in happier harmony, singing to the pregnant valleys a grandsire's lullaby. The stars are all gathering over California; the air is fragrant with fresh longings. Gentle woman comes, and with her soothing presence turns to contentment the restless romance of sorrow. The voices of children are heard. Ambition becomes fixed and reasonable as the shifting sands of San Francisco assume a value approaching that of gold-dust. Gambling-saloons and dens of infamy disappear from the more public places, and school-houses and churches mark the elevation of mind. A paradise of home and home-land opens to the so lately gold-blinded adventurer. Here is a habitation for free men and chaste women; here virtue shall rest and renew herself, and men shall defend her.

Thus to the eyes of those who now began to call themselves Californians began to appear California in the years 1852 and 1853. After that the city-builders grew a little captious, which mood is born of money, ever potential, and none the less imperative by reason of its scarcity. The great wave of prosperity, swelling since the influx of 1849, has begun its subsidence. Gold is no longer as plentiful as cobble-stones; residents wear wry faces, and eastern shippers curse the country. The winter of 1854–5 was dry. Early in 1855 banks begin to fail, and during the months which follow, a financial storm sweeps over the state. Investigations incident to monetary disruptions exhibit a rottenness in the financial institutions of the country little calculated to inspire confidence. Rascally receivers are appointed to settle the affairs of rascally bankers, and the suits and embezzlements which follow leave little for creditors.

The evil-doers of former days, baptized into a virtuous life by the fires of 1851, now appear upon the

streets in dazzling hues, like serpents flaming from their cast-off winter gear in the glittering spring sunlight.

Likewise politics and villainy are different from what they were. State finances are in a deplorable condition. With constitutional power to create a debt not exceeding three hundred thousand dollars, the state owes twelve millions. The liberal gifts of the general government in swamp and tide lands for school purposes have been frittered away. While yet in her nonage California's vast inheritance has been swallowed by hungry sharks, and now debt and talk of repudiation are the burden of her meditations. The state legislature is a scoff and a by-word, a reproach to common intelligence, common honesty, and common decency. Its members for the most part are the tools of unscrupulous knaves, who buy and sell them like sheep in the shambles, even as we see done to-day.

"At this time the state and city governments had become little less than organized systems for public plunder," writes H. P. Coon, an attentive observer of public affairs, in a manuscript narrative contributed to the history of this epoch.

At this juncture, antagonistic to the so long dominant democracy, arose the know-nothing party, promising radical reform. Good citizens believed their promises, and many who did not care to join their wigwams sympathized and voted with them. At the autumn elections of 1854 the new party was irresistible. The manipulators of elections had thought to outcount the reform candidates at the polls, but their opponents were too strong and too watchful for them. The new party came into power and the people breathed more freely. Great things were expected of them. But alas! within their ranks had crept the ancient spoilmen. Disappointment was the fruit of victory. Taxes increased to four dollars on the hundred, and the money collected was dissipated by officials immediately it touched the treasury box. Those who held

claims for labor or material were obliged to receive in payment scrip whose market value was from twenty to thirty cents on the dollar, thus obliging the city to pay often five prices for everything. Into the capacious maw of the political banking-house of Palmer, Cook, and Company, on Kearny street, went the people's money, of which there was an abundance collected for all necessary purposes, and thence it was distributed to those who sustained the organized system of plunder.

"No perjury was too black, no murder too foul," says Mr Coon, "if they were necessary to support that system or to extinguish opposition to it. Criminals of every shade had influence with the government and the administration of the laws, and petty thieves and vagrants were almost the only ones whose crimes were punished. The entire public press had become subsidized, or overawed, and whosoever raised his pen or his voice against the evils of the times became a marked man."

The impudent vagabonds of low extraction who had seized the reins of government, ruled the staid adherents to eastern morals as though they possessed some inherited right to such domination. With this doctrine they seem to have been impregnated, like Thracian mares, by the wind. But the very impudence of their pretensions drew them on to swifter destruction. There are never lacking men as fond of power as the bear is of honey, who often get stung by thrusting their nose into a hornet's nest. It was the governing element in the community which most of all required governing.

These politicians whom the attractions of public plunder had welded into powerful rings, exercised in San Francisco a tyranny far more despotic and galling than that which preceded the separation of the American colonies from the kingdom of George III. The political power which they had usurped gave them control of the ignorant and subservient masses, while

the prestige of legitimacy drew to their support many well meaning citizens, just as in past ages the fanaticism of divine kingship arrayed multitudes of good men against struggling patriots.

Slowly fell upon them the conviction of the best men, as they strove to rescue municipal affairs from the increasing misrule of the officials and their associates, that they had been sleeping; that the moral force of the community, which signifies the majority, while deeming themselves but transient sojourners in California, and while absorbed in their eager pursuit of wealth, had paid little attention to public affairs, and before they were awakened to the importance of these duties the unprincipled men who had acquired the offices had consolidated their strength and had skilfully combined so as to hold the balance of power between the political parties and retain control of the government. Thus again, unhappily, to the law came evil days. Following its first rescue, it performed its functions for a time with fair success, until it grew so strong that its enemies despaired of ever again beating it to the wall. So they set themselves about to subvert it to their own purposes. It was now strong, but its strength was turned against itself. Behind the shield raised against crime, crime itself was stationed with the sword of justice in its hand. Sitting in judgment, villains sold justice for money, or sent triumphant vice abroad in the livery of virtue. And now once more from an outraged community there went up a protest, low-whispered at the first, but gathering strength and volume as thought took on the form of words, and words merged into works, now a protest against wickedness in high places as hitherto it had been against vulgar vice. Again the time had come for an appeal to whatever may be the ultimate of a free people. *Salus populi suprema lex.*

It was a cunning contrivance, that by which the rascals voted themselves into office. Not that they

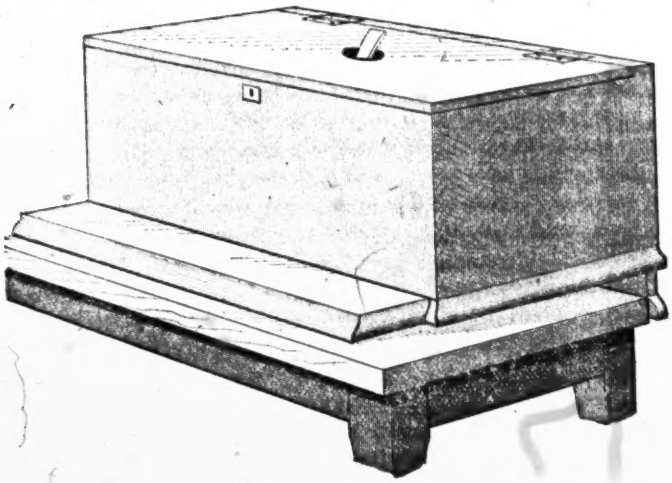
had but one method of circumventing honest men. There were more than can be told; more than will be ever known. One must indeed be wise to thread the intricate paths of primaries, to know the full power of money, of whiskey, of harlotry, and other hellish environment. Nevertheless it was a piece of creditable cunning, the stuffer's ballot-box, as they called it. In crime, as elsewhere, art follows closely the heels of industry.

Like the freshly shaved and newly white-shirted bully, rejoicing in a full stomach, a fine cigar, and fat prospects, seasoned with the hope of illicit gains, all was fair upon the outside, all was smiling and serene. Further than this, further, unhappily, than the bully comparison can be carried, all was fair upon the inside. It was a ballot-box, this new and reliable instrument for officer-making, a common vote-holder, to all appearances, of honest and homely plainness without and within. The evil of the machine lurked in the thin compass of sides and bottom.

One of them was found by the Vigilance Committee of 1856 and placed on exhibition at their rooms. It was the little voter-engine employed by the prize-fighter Yankee Sullivan while acting inspector of the first precinct election, and which made supervisor James R. Casey, of whom we shall know more presently. The box was about two feet long, fourteen inches wide, and a foot deep, and the outside was painted dark-blue. Round the bottom ran a neatly fitted moulding, connected with two inner slides, and constituting a false bottom and a false side. The lock, apparently an ordinary one, and worked in the usual way with a key, might also be sprung by a peculiar pressure on one side of the lid. About the middle of the cover was bored an auger-hole, which received the votes. The second or false bottom and side were neatly fitted to run in grooves inside the real side and bottom, so that when closed both the inside and outside possessed the appearance of a simple plain box. The

general construction of the engine was somewhat rough, which if anything assisted in deceiving the observer, who would never suspect dishonesty in mechanism so simple.

Let us now set the thing going and see how it works: Sullivan wants Casey elected, and Casey desires to place upon the bench a judge after his own heart, so that when he or any other gentleman wishes to kill some unreasonable citizen, or any worker silly enough to complain of reasonable bleeding at the



hands of the non-workers, no one shall be hurt for it. It is all in the family; the fraternity are to elect their ticket. Sheriffs, constables, and judges are all useful in their way; it is so much easier to do things according to law and order, to be respectable in one's villainy, and sleep well o' nights. Sullivan therefore takes a bundle of the tickets bearing the honored names of Casey, McGowan, Duane, and that class, and neatly folding them draws out the slide and fills with them the space between the true bottom and the false one. The side space is likewise stuffed; the slides are shoved

back to place, and nothing is seen of the mighty power-papers concealed by bottom and side, nothing but a plain honest ballot-box, inside and outside.

Now lock it. Give the key to the proper officer. As in their mighty sovereignty the citizens of this all-knowing republic draw near and deposit their votes, drop the tickets in at the auger-hole bored for that purpose, drop them in thankfully on behalf of those who every night on bended knees send up thanksgiving that their lot has been cast in a land where all men are free and equal, where the sacred right of suffrage is the inheritance of all, sedately sits Sullivan, keeping careful tally in his mind how the election goes. At the closing of the polls let the inspector fill the aperture in the top with wax, and let all the people witness it, for there must be perfect fairness in this election. Seal up the box and swear as to the contents.

Surely everything is correct now; surely all has been conducted in strict accordance with law. Jealous political opponents have watched that box all day, and half a score of them can swear that it was not opened or disturbed throughout the day, and that not a single ticket was put into it which was not fairly voted. The opposition to the imposition are sure their ticket is elected; Yankee Sullivan is sure it is not, or if it be now it will not be presently. Yankee coughs; the other inspectors turn their heads aside, when, unobserved, Yankee takes the box, fumbles it somewhat, draws out the magic bottom, turns the box over, and shoves back the slide. If he thinks this not sufficient, he does likewise to the magic side. The officer may now unlock the box; the judges may count the votes. It is very strange, the result of that election, to the single-hearted citizen watching for his country's good; to the initiated it is strange only that so simple a contrivance should have escaped the notice of liberty-lovers so long.

It was a trick exceedingly difficult to expose, even after it was known to be in common practice; and

had not the stuffers finally hurled themselves to destruction upon the points of their own passions the evil would have continued much longer. If from any cause the manœuvres of the stuffers failed them at the polls; if inspectors, judges, and clerks of elections were not of their appointing, and the voting in consequence was likely to be against them, as a last resort some desperado among them would seize the box, break it open, and destroy the ballots. The bully might be arrested, but there was nothing fearful in that; and at the new election, which of necessity must be ordered, the unholy brotherhood would awaken to a sharper sense of their duty.

The Committee finally took the ground that ballot-box stuffing was worse than murder; because on the purity of the ballot-box depended the purity of all law and government, of governors, legislators, judges, and jail-keepers. Pollute the spring, and the entire stream is polluted. Not that political criminals were ever punished by them as murderers, because they never would transcend with their power the punishment prescribed by law for offences.

A system of ballot-box stuffing then in vogue was exposed by the *Times and Transcript* in 1854. Besides the false bottom and sides of the box of 1856, there was contrived a machine by means of which the inspector, or person depositing the vote, by touching a spring which controlled the opening, could either admit the ticket into the box proper, or, if he did not like the looks of it, send it where it would never be counted. Another method was to install as receiver a sleight-of-hand artist, who, while closely watched by the voter, could without detection substitute a ticket of his own for the one voted.

At a charter election held on the 11th of April 1853 the polls in the first ward were held at the Bay Hotel, on Cunningham's wharf. Harry Meiggs was running for alderman, and carrying everything before him. One William Lewis, a waterman on Pacific

Wharf, thinking honest Harry was winning his election too easily, and without payment of the usual fees to laborers of his quality, trumped up a crowd of illegal voters for the opposing candidate, and delayed the polling as much as possible by challenging every man whom he supposed likely to vote for Meiggs. Finding that all these efforts were made in vain, and that Meiggs still had a large majority, Lewis stationed himself near the window, and when the inspector's back was turned thrust in his hand, seized the ballot-box, and threw it into the street, smashing it in pieces, and scattering the votes irrecoverably to the winds. Lewis was arrested and made to suffer the full penalty of the law for the display of his new method of defeating a candidate; but this was only after measures for reform had been inaugurated.

And at the same polls the year following, says the editor of the *Herald*, not as yet the open friend and supporters of the stuffers, the 8th of September 1854, just after the general election:

"The men who have control of the ballot-box in the first ward have defied law and precedent in refusing to allow any witnesses of their midnight count. They have carried things with a high hand, even if the affiants who swear on the holy evangelists that they saw them destroying the ballots and putting others in their stead are guilty of perjury. If they are not so guilty, if they have told the truth, the swift vengeance of an outraged people will be and should be visited upon the creatures who would thus dare to trample upon the sacred rights of freedom and pollute with sacrilegious hands the very fountains of American liberty. We say to the ruffians who have endeavored to take this election out of the hands of the people, who have been striving with bludgeon, dagger, and pistol to ride rough-shod over the people, that there is a feeling abroad that bodes danger to them. They are standing upon a volcano that may burst at any moment. The purity of the ballot-box will be preserved at any and all hazards, and if its assailants are exterminated in the struggle no tears will be shed by the honest and upright citizens of San Francisco."

Ballot-box stuffing began in San Francisco at an early day. On the 25th of September 1851 Francisco Sanchez and Arsenio Miramontes, native Californian citizens, and election inspectors of the eleventh precinct, profoundly shocked at the depravity of their

Anglo-Saxon associates in their profanation of what they deemed next to their religion a thing most sacred, filed in the county court an affidavit exposing a fraud perpetrated on that occasion.

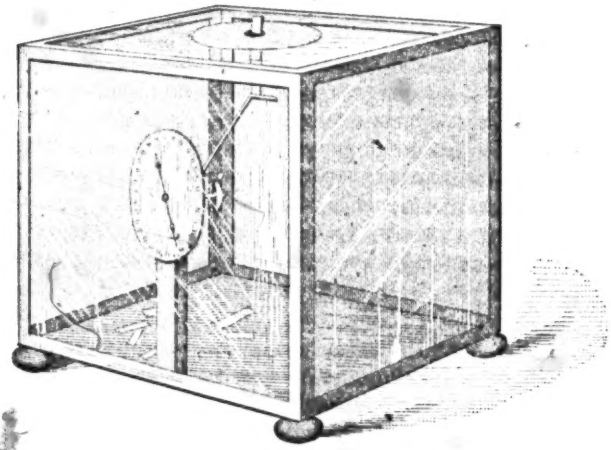
In the primary elections of June 1854 ruffianism was again dominant. Throughout the whole of election day fighting was kept up, with scarcely any intermission. In all the different wards rowdyism was rampant. Whiskey flowed like water, voters were hustled about by the villainous crowds that surrounded the polls, shots were fired, and in some places serious riots occurred. Human faces divine appeared before the recorder next day mashed into the shape of a squeezed orange. Says a journal of the day: "A lawless horde of brawling scamps are let loose to browbeat, to bully, to put in fraudulent votes, and to take the ballot-box if necessary, in order to suppress anything like legitimate popular sentiment; and in this way are chosen delegates to a convention that pretends to give us congressmen and state officers."

The sixth ward, its henchmen and strikers, was the most renowned precinct of vigilance times. That the importance of the positions of sixth-ward inspector and judge of election may be understood, the reader should know that as returns were then made, there was no time fixed within which to declare them. Hence certain wards were kept open, the last usually being the sixth, until the votes of all the others were known, when whatever tickets were lacking to secure the election of the stuffer's candidate would be thrown into this ballot-box and counted out from it. In this way they might carry San Francisco as the Persians carried Athens, by dead-weight alone; but they could not so carry the San Franciscans.

At the elections which followed the vigilance reform numerous ballot-boxes made or patented by ingenious contrivers were presented. Some were of glass and some of wire. One of the latter was claimed to be bullet, brick-bat, and burglar proof. It was six inches

wide, six inches deep, and twelve inches long, and the wires were so woven that great strength was united with openness, it being impossible for a ballot to find its way into the box without detection.

A ballot-box of glass was patented by a San Francisco optician. It was of heavy French-plate, about fourteen inches square, the edges and seams closed with brass mouldings. Through a small hole in the circular brass plate fitted into the top the ticket was thrust, and as it passed in it touched a spring which struck a small bell and turned the hands of a dial.



The bell and dial were both within the box, so that they could not be tampered with. The dial could be arranged so as to count five thousand. This famous box was finally sold for five hundred dollars and sent to the interior for exhibition.

There was a mass meeting held before the Oriental Hotel the 15th of June 1856, Balie Peyton presiding, at which a bully's ballot-box, captured at Woolly Kearney's house, was exhibited as orator of the occasion. It was there stated that at a late election in

San Mateo County fifteen hundred votes had been returned from three precincts where there were but three hundred voters in all; five hundred votes were returned from Crystal Springs, where were then not more than thirty voters.

At a meeting of the Executive Committee the 28th of August, Mr William Arrington was authorized to dispose of a patent ballot-box which had come into their possession to Captain Gough on such terms as he might deem proper. Failing in his first attempted negotiation, at a subsequent meeting Mr Arrington was authorized to accept for the box five hundred dollars in cash, Captain Gough's note for five hundred dollars, payable in fifteen days, and three thousand dollars contingent on the successful exhibition of the box. The sale was consummated on these terms.

From time to time the ballot-box in San Francisco was improved, until in 1878 it reached a state of supposed perfection. All the four faces were made of glass, the whole upper surface comprising the lid, with hinges and lock. Another style had a circular lid three inches in diameter, in the centre of the cover, the key working perpendicularly.

With such a state of things it was clear that reformation in the regular and legitimate way was wholly out of the question. Attempts to purify society through the citizens' right of suffrage was applying to politics the Rosicrucian method of greasing the weapon while binding the wound. Corruption propagated. Rascality bred rascality, and the reign of crime seemed self-perpetuating. The uniform defeat resulting from continued effort discouraged many, who argued that without stepping beyond the forms of law the laws could not be enforced, and finding the most earnest leaders not ready to sanction such a course, became indifferent, or with little regret saw matters drifting from bad to worse, feeling that the result which they

had predicted as inevitable would all the sooner become apparent.

Public feeling became vitiated, and the standard of public opinion sank low. In the newspaper press throughout the state there appeared an appetite for scandal and personalities. Abusive articles found the readiest readers, and a thirst for bloodshed, the fruit of long indulgence, seemed fastened upon certain portions of the community. Club-law had become an institution of the country; criminal courts were a sham. Street-fights were enjoyed with the keenest relish in the cities, and throughout the country mob trials and executions were glorious excitement. Pugilistic encounters were announced in the journals of the day. Likewise notice, either verbal or in the newspapers, would be given of a fist-fight to come off at a certain time, and crowds would collect on Montgomery street to see the fun. Ancient enemies with concealed bowie-knife and revolver prowled the streets, and on coming together an undeclared battle of pure self-defence on both sides would immediately begin. A ruffian detected in the commission of a crime would run for a policeman for protection against the people. In those days there was joy in tribulation to every murderer fortunate enough to find sanctuary in a prison, where angel keepers were his guard and official ravens fed him.

Amidst such a state of things it is easy to understand how summary punishment for crime should grow in favor in the cities as well as throughout the country. It would be unfair, however, to cast the blame of this gross laxity entirely upon the courts. Here again the people themselves were at fault. Even if the judges did their best, which was often the case, the juries would not convict. The sentiment against killing in fair fight, or in what might by legal twists be called self-defence, was not yet so strong but that the defendant's counsel could easily find some on every jury who would absolutely refuse to join in

a verdict against a murderer. Further than this, these very jurymen, many of them, whom it was so easy for a skilful lawyer to persuade against duty and conscience in a court of law, joined committees of vigilance and became active supporters of extreme punishment. Thus the very system which we so sacredly regard as the bulwark of all our rights, then as now, acted against justice and as the friend of thieves and murderers.

When transplanted to the distant and virgin soil of California, the evils of our political system, like rank weeds, shot upward into the sunlight more conspicuously perhaps than in the older states. At all events, nowhere has been the curse of overmuch voting more manifest than here. There is no greater despotism than that which springs from excess of liberty; no greater weakness than the strength of strong minds bound with the sand-ropes of universal suffrage. Nowhere do we find the moral tone of the nation lower than among those who, without having at heart or at hand a single object of a public or of a personally disinterested character, shout loudest at elections and vaunt their patriotism for pap.

Among others, there was this difference in the elements which caused the social disruption of 1851 and that of 1856. With the emigrants who flocked in multitudes to the state immediately after the adoption in 1850 of the state constitution, and who were mostly well meaning, industrious men and virtuous women, were certain vile persons, who soon became active in gathering gold by dishonest means and in the general derangement of society. Growing bold, they organized and overran the city and country, waging open war and increasing in villainy until the people to save themselves were obliged to put their venomous companions down. More intelligent, and hence more crafty, were those who stirred the storm of 1856. Loaded dice, waxed cards, burglary, and arson were now held in light esteem as puerile and vulgar. There

was a field open on these shores for skilled labor, for men of parts, men full-grown in iniquity, and this field was politics. Neglected by the virtuous, public affairs fell into the hands of the vicious. This impudent assumption of political power by foreign cutthroats is the irony of our boasted institutions, the keenest they have ever experienced. Now, said the happy harpies, once in office, if law is what the people of California want we will give it them. Fixing their attention, first upon primaries, then upon double-slide ballot-boxes, after a series of successful tricks in political legerdemain the reptiles were enabled to revel in public plunder. The second cataplasm was applied to a superior order of villainy, consummated by a superior order of villains.

Often in the history of governments have popular movements against existing authority resulted in a despotism far more crushing than that which was overthrown. Therefore it was necessary to be cautious. Defeat would bring the worst results. The politicians of the day were essentially fighting men. A revolver and a bowie-knife were as necessary to them as a rule and handsaw to a carpenter. Deadly weapons were their strongest arguments, with which they were enabled to enforce their principles more effectually than with either tongue or pen. Their bullying propensities frequently obtained them office when all other means failed. Rectitude of character they had none, and their reputation was of such a flimsy texture that they did not even attempt to patch it. So long as their weapons were kept keen and bright, little to them mattered the tarnishment of honor. Yet never men so boasted a quality of which they were deficient. Like steamboat runners employed to bellow the merits of opposition boats, they talked loudly and made many converts, particularly of that class which like themselves hung about saloons, and were a standing conundrum to workingmen as to their method of obtaining food and shelter.

Base-minded and cowardly, as all bullies are, they dare not mingle and hold converse with their fellowmen, except with one hand on a loaded revolver.

On the evening of September 16th the Vigilance Committee of 1851 in full session adopted a resolution suspending their meetings indefinitely. They did not disband or disorganize; they merely rested in order to give the law an opportunity to vindicate its supremacy should it be able to do so. Before passing this final resolution, an executive committee of forty-five members was appointed, not for the purpose of arresting or punishing criminals, or of encouraging antagonism to lawfully constituted authorities, but to keep up the organization and be ready in case of necessity. They were to remain in force for six months, with power to call together the committee of the whole at any moment; they were to hold correspondence with other associations throughout the coast, and to assist the police in ferreting crime and bringing criminals to justice. Thus was the purity of their past actions proved, and the nobleness of their character throughout all time established.

Besides the time taken from their business, the members of the Committee had been called upon for considerable sums of money, which they cheerfully contributed. About thirty persons had been sent back to Sydney at a heavy expense, and one to Panamá. Agents of the Committee who were actively employed in hunting crime throughout various parts of the country required money. Many criminals became frightened and fled. Some, said to have in their possession a large amount of stolen jewelry, were secreted in the southern part of the state. They succeeded in escaping in an outward-bound vessel, and a party of vigilants were sent in pursuit, but did not succeed in overtaking the ship. Some went east, others to Europe, and no small number joined the filibustering expedition of William Walker, and

so saved the public executioners of California much trouble.

With the beginning of 1852 crime grew a little bolder, six or eight daring robberies being committed in as many weeks by apparently the same persons. Evidently new gangs were being formed, but the authorities, grown more efficient under the teachings of the popular tribunal, were thought now to be a match for the rascals. At all events, the citizens were willing to grant them an opportunity to do their duty. But as crime crawled forth again, the Committee found it necessary to hold a general meeting on the evening of March 17th, at which there were present about three hundred and fifty members. A new executive committee was chosen, and arrangements were made to hold regular meetings. Again there was a visible and sudden falling-off in the number of burglaries and murders committed. By June the decrease of crime in San Francisco was a subject of general remark. San Francisco was then as quiet and orderly as any eastern city of equal size.

Society in the interior continued in an unquiet state, and it was thought it might become necessary to organize a state committee upon a principle similar to that of the San Francisco Committee, which should effectually clear the country of footpads, highwaymen, and like desperate vermin. Two immediate causes contributed to these present troubles in the interior; one, the fact that all the larger towns and cities of the state had lately been cleansed of their criminals by their respective committees of vigilance, to the disadvantage of the smaller towns and of miners and farmers, and the other that as popular tribunals subsided desperadoes took courage and put on boldness.

The Committee of 1851 still showed signs of life by advertising, through the winter months of 1852–3, a reward of two thousand dollars for the arrest, with sufficient testimony for conviction, of any person set-

ting fire to any building in San Francisco, at the same time calling on the people to furnish them such information as would lead to the arrest of any person guilty of arson, burglary, or highway robbery. These notices were signed by Selim E. Woodworth, president, and Isaac Bluxome, junior, secretary.

Like a dismal shadow the doings of the first Committee haunted for a time the memory of evil-doers, until, amidst the activities of new opportunities, which in this rapidly revolving society met them at every turn, the unhappy strangulations of by-gone days gradually assumed less substantial form, and finally faded, in effect at least, to the texture of a half remembered dream.

Not so appeared the solemn teachings of the opaque past to those who sought to do well. The terrible enginery of former necessities, which was likewise a cloud in their memory, spoke to them only of the sure and permanent destruction of crime; and political leaders who sought power and profit by infamous means, might have read their own doom in the signs of the times.

There were those in the first Committee who refused to join the second, on the ground that the former was a necessity which five years later did not exist. Likewise there were those who had opposed the first Committee from conscientious scruples, who joined the second; those whom temperament and education had so wedded to the sacred statutes of justice that they found it impossible all at once to cast themselves adrift and join the profane throng, but who had been steadily driven toward the conviction that there was no help for it, that the banded bad men had so securely intrenched themselves behind the forms of law that nothing but force could dislodge them, that nothing would cure the evil but hanging. For like the giant Antæos, as long as their feet touched earth no Hercules could crush them.

In all these pictures of early days, which I mean shall be truthful and not overdrawn, I wish it clearly understood that if comparison be made, I do not regard men, society, the times, and political affairs as worse then than now. They were different: worse in some respects, better in others. In regard to morals, vice was less shamefaced in 1852, but from laxity in religion and a more general freedom of thought, immorality was easy in 1882. Criminal court trials are every whit as much a farce now as when the right honorable Ned McGowan sat upon the bench dispensing justice with a cigar in his mouth, his hat cocked on one side, and his feet elevated to a level with his head. There was more political corruption thirty years after the organization of the government than three years afterward. What can there be more dishonest and disgraceful than the wholesale bribery of legislators by the railroad monopolists, than the bribery of the county assessor by the bankers, than the bribery of boards of supervisors and boards of education, so common throughout the country? While dwelling upon the iniquity of others do not let us forget our own.

A bribery case arose in the legislature of 1854, which to the more experienced politicians of a quarter-century later appears unnecessarily noisy. Mr Peck, senator from Butte, accused Mr Palmer of the politico-banking firm of Palmer, Cook, and Company, of offering him five thousand dollars for his vote on the senatorial question. Mr Palmer denied the charge, and affirmed that Mr Peck offered to sell him his vote for five thousand dollars. The senate took the matter up, and after much flaunting of soiled virtue concluded that no one was to blame; no one swore falsely, or offered to give or take a bribe. We do these things better now. And yet, like the clothes that cover shame, our immoralities may be rendered all the more conspicuous by the paraphernalia which we employ to hide them. Where, among all our honorable politicians

and wealth-hoarding magnates, do we find one who in the manner of his elevation deals with those at whose expense he achieves ignoble fame as did the Alcmæonidæ in building the temple of Apollo, substituting Parian marble for the cheap common stone contracted for?

CHAPTER II.

ASSASSINATION.

Law supports those crimes they checked before,
And executions now affright no more.

Creech.

The pressure of sin upon society, the dead weight of tyranny, whether that of a feudal baron or of a nineteenth-century monopolist, if long continued is sure to result in the destruction of the destroyer. Brittle as well as viscous substances flow under sufficient pressure; lead and ice in large masses flow under pressure of their own weight; so melt the grinding glaciers of society under the dead weight of their own iniquities.

In the midst of these ill-tempered times, when official and financial corruption seemed rankest in young San Francisco, James King of William, a ruined banker, but a man of unimpeachable integrity, began the publication of a daily newspaper, which he called the *Evening Bulletin*.

Mr King was born at Georgetown, in the District of Columbia, in January 1822, and was therefore at this time about thirty-four years of age. Rather below medium height, with a dark complexion, large dark eyes, aquiline nose, black bushy whiskers, a well shaped head set on slightly stooping shoulders, he was a man of keen intellectual perceptions, though not very robust. His father was an Irishman named William, and following a custom once somewhat common among his people, in order to distinguish himself from other James Kings, he wrote his name

James King of William. His younger days were associated with the post-office department and the banking-house of Corcoran and Riggs in Washington. In 1848 he started for Oregon by water, partly for health and partly for trading adventures; but arrested in his voyage by the attractions of California, he took up his residence at Sacramento. There he assisted in the organization of a government, and also engaged in mining. In 1849 he opened a banking-house in San Francisco, but losing heavily in Tuolumne County investments in 1853–4, he closed his office. In legitimate banking he had acquired a moderate fortune, but when he failed he kept nothing from his creditors, and even refused to avail himself of the insolvent act. Many stood ready to assist him, but he had a constitutional shrinking from obligation to or dependence on others; and as I. C. Woods, the managing partner of Adams and Company, proposed to take his business and assets, and assume his banking liabilities, provided he would agree to take charge of one of the departments of Adams and Company and manage it for two years at a salary of one thousand dollars a month, he concluded to accept the position, and filled it until the failure of that firm, in February 1855.

His quickness of comprehension and habits of systematic detail soon convinced him that the mammoth express and banking firm was insolvent, and so he informed the manager, but was only ridiculed for his pains. The failure of the banks, beginning with Page, Bacon, and Company, threw Mr King out of employment; hence, partly, he conceived the newspaper project. In his days of prosperity he had assisted in establishing and sustaining, among other newspapers, the *Herald*, which under the trenchant editorial pen of Mr John Nugent, formerly a lawyer of some repute, had at one time rendered valuable service in protecting the community from the dishonesty of officials, and preserving vigorous and watchful public opinion. But at the time of the establishing of the

Bulletin many influences had combined to enfeeble the power of the press, to lessen the interests of its managers in good government, and to weaken the general confidence in their desire for the restoration of purity and integrity in the management of public affairs. Believing that he could provide a modest support for his family, and at the same time render good public service, he borrowed a small sum and began the publication of his paper, notwithstanding there were then in San Francisco not less than a dozen journals struggling for life.

It was a small sheet, with small resources, and its publication office was a small building standing in the street instead of beside it, a significant fact when joined to its other anomalies. This grain of mustard-seed, however, soon spread out and filled the whole coast. Ignoring for two reasons the tricks and hypocrisies of journalism, because first he would not practise them, and because secondly he did not know how, his chief concern in his stipulation with his publisher, C. O. Gerberding, seemed to be for his own absolute control of the journal's columns, so that those he was about to punish might not buy a controlling interest in the sheet, and so silence its calls for reform.

The first number was issued the 8th of October 1855. It was clear enough from the beginning that the purpose of the editor, aside from pecuniary considerations in entering the arena of journalism, was, first, the righting of personal wrongs growing out of the late financial troubles, and, secondly, war on wrongs in general.

Mr King began his brief career as a journalist with a modest, frank simplicity, freely expressing his inexperience, and somewhat astonishing his practised competitors by making haste to acknowledge mistakes, and to offer self-respecting but ample apologies to those about whom he had unwittingly made misstatements. He did not know the difference between editorial and personal lying. He was ignorant of saying one thing

while meaning another. He was too simple even to study the policy most profitable to his paper, and call it public weal. He never thought at every step to look behind to ascertain if the dear people were following; and strangest of all, he forgot to fill his columns with journalistic quarrels, which, however interesting to the editor, are of very small moment to the public. He would be a reformer, an honest and ardent one, and he believed he could establish a journal with which, by constant exposures of the schemes of bad men, and continual attempts to concentrate the efforts of good men, the conspirators would be defeated.

He evidently entertained few practical ideas regarding his new undertaking, and seems never to have troubled himself over the question of his capability as a writer. He had something to say, and he was quite sure he could say it. He could speak to more people, and more to the point, by means of the printing-press than by any other means: so he published a newspaper. United with honest faith in the good intentions of the masses, Mr King was endowed with a shrewd capacity to awaken interest and secure confidence. His editorials carried with them the conviction that the writer was a man of character, and that of a high standard; that a love of justice pervaded every fibre of his nature, and that it was welcome duty to administer merited rebuke to every one who accepted public trust and betrayed it.

His style was unstudied, almost homely and colloquial, but pierced to the pith of his subject with surprising directness and vigor. Indeed he cared little for style or diction. He indulged neither in the bombast of Æschylus nor the sophistry of Euripides, and Aristophanes would hardly have praised him for his skill in satire, though some of his contemporaries were quite ready to do so. All this, however, or any species of criticism that might truthfully be brought against him, went for nothing. The simple truth was

strong enough for him, as indeed it is always the mightiest power of the strongest. Laying it on vigorously, constantly, he proved himself a scourging writer. Most persistently and most effectually did he battle against personal and public enemies from the beginning of his career as a journalist to the day when he fell, a victim sacrificed upon the altar of an outraged commonwealth. Naturally this course aroused the enmity of the office-holders, who were amazed at his temerity, and to whom his motives were in a measure incomprehensible.

Frequently was he threatened by personal enemies and political cutthroats, and again and again was he warned by his friends that sooner or later his life would pay the penalty of his temerity. Yet steadily and fearlessly he continued his course; and that at a time when, among the class most severely castigated, a bullet was the usual answer to an insult.

While clerk with Adams and Company he had become familiar with the finer phases of financial and political rascality which his nature abhorred, and which he now exposed with merciless severity. The notorious politico-banking firm of Palmer, Cook, and Company was then at the height of its power and of its apparent prosperity. This institution the *Bulletin* at once attacked, charging it with corruption, bribery, and financial unsoundness, exposing its secrets with such clearness and intimate knowledge of its affairs as made men wonder how the editor obtained them. The battle was continued with unflinching persistency day after day for many months, until the firm was ruined, and consequently harmless. Broderick, Billy Mulligan, Woolly Kearny, Casey, Cora, Yankee Sullivan, Martin Gallagher, Tom Cunningham, Ned McGowan, Charles Duane, and all that class of shoulder-striking, ballot-box stuffing politicians, together with gamblers, prostitutes, and pimps of every shade, rich and vulgar like, but more particularly those who had made themselves conspicuous in public affairs, he tore in

pieces with almost savage ferocity. Likewise he scattered thorns upon the bench of criminal judges, and made derelict officials drink gall. To lawyers who lived by defeating justice, and to all who polluted the springs of virtue and preyed upon industry and public morals, he was a thorn in the flesh. Opposition and danger only roused him to bolder efforts. Each day his shafts were launched at some new infamy; each day his pen, like the white plume of Navarre, flew along the topmost billows of the fight.

Juvenal, in his denunciations of venal Rome, with her refined and hypocritical people, high in culture but low in morals, was not more earnest, honest, or successful. Parasites of the government flaunting in the fruits of extortion, insolent Crispinus or ostentatious Matho in the hands of the scathing satirist, were not more severely rebuked. His courage was of a quality touching desperation. He acted like a man having nothing to lose. Fortune was gone, and disgust had taken the place of business ambition. It was understood from the outset of his journalistic career that neither he nor his organ was for sale. It was understood that he would not fight a duel, that he feared no libel suits, though on this account he was none the less careful of his facts. Bold, resolute, desperate, his editorials often bordered on the scurrilous, but they were ever on the side of virtue and honesty.

Unfortunately we are none of us wholly free from the bias of temperament, education, and environment. Like most reformers, Mr King approached the morbid where his cause was concerned. He seemed to regard all lawyers, judges, and officials alike as evil-minded enemies of the public. This has never been true in any epoch of California's history. On the contrary, whatever may be said of laxity in public morals and corruption in high places, there never has been a time when a majority, not only of the masses, but of those who lived by the law, were not in favor of right and

morality. This fact, in our analysis of an abnormal or distempered epoch, should never be lost sight of. The Vigilance Committee sought the right; the law and order party sought the right; the difference was, the former were practical and clear-sighted, while the latter were blinded by overmuch learning, by bigotry, and by their private interests. Some were inherently and irrecoverably bad; but these were always in the minority. One animal of evil odor can make fetid the atmosphere surrounding a thousand flowers; so one bad man can bring offence upon many good men.

"Bets are now offered, we have been told," writes Mr King November 22, 1855, "that the editor of the *Bulletin* will not be in existence twenty days longer, and the case of Dr Hogan, of the Vicksburg paper, who was murdered by the gamblers of that place, is cited as a warning. Pah! We passed unscathed through worse scenes than the present at Sutter Fort in '48. War, then, is the cry, is it? War between the prostitutes and gamblers on one side, and the virtuous and respectable on the other! War to the knife, and the knife to the hilt! Be it so, then! Gamblers of San Francisco, you have made your election, and we are ready on our side for the issue!"

One Selover, of the fraternity, denied the privilege of the duel which he professed to desire, threatened darker measures. On the 6th of December Mr King says: "Mr Selover, it is said, carries a knife. We carry a pistol. We hope neither will be required, but if this rencontre cannot be avoided, why will Mr Selover persist in perilling the lives of others? We pass every afternoon, about half-past four to five o'clock, along Market street from Fourth to Fifth street. The road is wide and not so much frequented as those streets farther in town. If we are to be shot or cut to pieces, for heaven's sake let it be done there. Others will not be injured, and in case we fall our house is but a few hundred yards beyond, and the cemetery not much farther." And again, the 5th of

January: "If these fellows are really determined to attack the editor of the *Bulletin*, why don't they do it at once and be done with it? Why keep everybody in suspense? Here we have been carrying a pistol for nearly three months because of the braggadocio bullying of this crowd, until we are heartily tired of it. We don't want to carry weapons. If the fuss must come off, let it come at once and be over." Of a truth this pistol of Mr King's, like the famous gray steel sword of Kol, was more fatal to the owner than to any one else.

About this time, namely, on the 17th of November 1855, there had been murdered a prominent citizen in open day upon a public thoroughfare in San Francisco, and yet the murderer remained unpunished. Indeed he did not expect punishment. Between William H. Richardson, United States marshal, and Charles Cora, an Italian gambler, there had been some difficulty. Friends interfered to reconcile them, and all differences, as it was thought, were amicably adjusted. About half-past six o'clock on the evening of the day above named Richardson and Cora were seen in front of McAllister's building on Clay street, below Montgomery. They had just come from the Blue Wing saloon on Montgomery street, near Clay. One standing near them heard Richardson remark, "Well, is it all right?" "Yes," Cora replied. Continuing their conversation in a low tone for a short time, suddenly Cora with his left hand seized Richardson by the collar of his coat, and with the right drew from his pocket a derringer. "What are you going to do?" cried Richardson; "don't shoot, I am unarmed!" Scarcely were the words uttered before the ball from Cora's pistol had penetrated the officer's breast. The Italian held his victim up for perhaps a minute, until convinced that the wound was fatal, when he let the body drop.

So suddenly fell the blow that the witnesses for a moment were paralyzed. Cora turned from his victim,

but before he had proceeded far he was arrested and hurried away to the station-house. Richardson was taken to Keith's drug store, corner of Montgomery and Clay streets, where he almost immediately expired. Meanwhile an immense and fearfully excited crowd had gathered in the vicinity, completely blocking the streets for two squares. Cries of "Hang him! hang him!" were heard on every side. Several addressed the assemblage, urging the immediate execution of the murderer, and on putting it to a vote a storm of 'ays' and 'noes' followed. Though burning with indignation at the dastardly deed, there were many in San Francisco to whom arbitrary punishment was unknown, and to others it was most distasteful; besides, Cora had friends to swell the volume of 'noes.' All evil-doers were his friends.

In perfect peace, as if encircled in the arms of his mistress, Charles Cora nestled in the bosom of the law. While there he was safe, and manifested the utmost coolness; but when for his greater safety from the mob he was transferred from the station-house to the jail, he grew anxious, and glanced nervously behind to see if avengers were at his heels. During the evening of the day of the murder the excitement continued, and the propriety of an immediate and summary execution was openly discussed. The bells of the several engine-houses were rung, which seemed to presage hanging; it was rumored that the Vigilance Committee were in session, that rope and beam were ready, and that an attack on the jail would soon be made. The sheriff being absent at the time, his deputy, fearful of an attempt to seize the prisoner, secretly sent him to the suburbs of the city, heavily ironed. The sheriff returning shortly, ordered him brought back to the jail, over which he placed a strong guard. At the Oriental Hotel Samuel Brannan addressed the people, urging the immediate execution of Cora. It was said also that he had procured the ringing of the bells, but this he denied. He was arrested by the sheriff for dis-

orderly conduct and inciting a riot. A large crowd followed him to the station-house, threatening once or twice to rescue him Arrived at the police office he was immediately released on his own recognizance. Toward morning the excitement died away, and the people dispersed to their homes. Cora was examined by the authorities and held for trial.

It was said that the cause, though not the immediate occasion, of the shooting of Richardson was natural indignation resulting from the offensive demeanor while at the theatre toward Mrs Richardson of Belle Cora, a notorious prostitute by whom Cora was supported, and who honored him by assuming his name. To my mind the dispute speaks little better for the wife than for the mistress, as no lady, be the circumstances what they might, would quarrel with a prostitute at a theatre, and no prostitute would insult a lady who gave her no opportunity.

The feeling awakened by this assassination, following as it did a long list of unpunished outrages, was not allayed by another brutal murder committed at the Mission a week after, plunder being the incentive. There were many calls for a vigilance committee at that time; but the very men who six months afterward were driven to this ultimate resort, now made their influence felt against such a remedy. In the Richardson case they successfully argued that as the victim was a prominent federal officer, the murderer one of a class of vultures against whom public opinion was being aroused, and the crime one attended with atrocious coolness, the probabilities were strong that the courts would administer justice.

At this time Mr King wrote vigorously in the *Bulletin* advocating dependence on the law, asserting with good cause the implicit confidence universally felt in the integrity of Judge Norton and Judge Hager, before one of whom the case would probably be tried, and expressing his personal hope and belief that the day had passed when resort to arbitrary

measures should be necessary to secure justice in San Francisco. Neverthless his language was plain enough as to what should be done in case of further trifling with justice.

"Hang Billy Mulligan!" he cries. "That's the word! If Mr Sheriff Scannell does not remove Billy Mulligan from his present post as keeper of the county jail, and Mulligan lets Cora escape, hang Billy Mulligan, and if necessary to get rid of the sheriff, hang him—hang the sheriff! Strong measures are now required to have justice done in this case of Cora. Citizens of San Francisco! what means this feeling so prevalent in our city that this dastardly assassin will escape the vengeance of the law? Oh heavens! what a mortification to every lover of decency and order, in and out of San Francisco, to think that the sheriff of this county is an ex-keeper of a gambling hell; his deputy, who acts as keeper of the county jail, is the notorious Billy Mulligan, and a late deputy, Burns, the late capper at a string-game table! Merchants of San Francisco, mechanics, bankers, honest men of every calling, hang your heads in very shame for the disgrace now resting on the city you have built!"

While deprecating the necessity for it, people began to talk of the reorganization of the Vigilance Committee, but Mr King was not in favor of it. The offices of judges and jailer were filled by the tools of cutthroats who unblushingly plied their traffic upon the most public thoroughfares in open day, and then bet two to one that they would escape punishment. Abroad emigration was checked by the prevailing idea of villainy and corruption in every avenue of society, and at home respectable men felt it a duty to their families to quit the country rather than expose their children to the vice and iniquity that so unblushingly stalked the streets.

When Richardson was shot by Cora, "Who will be the next victim?" people asked. The jailer was the

special friend and crony of the murderer. What a farce! "If the jury that tries Cora is packed, hang the sheriff!" exclaims one. "Mark my words," says another, "Charles Cora, if left to be tried by the legal tribunals, will be let loose upon the community to assassinate his third victim." All good citizens, and most assuredly all evil-minded ones, hoped the time had passed when the necessity of vigilance committees existed, yet the former were ready to resort to that or any other means which should assure them safety, peace, and good government.

Several months elapsed before the case of Cora was brought to trial; meanwhile a man named McDuffie was appointed to the vacant post of United States marshal. This person, in connection with a partner named Van Read, had accumulated a fortune by conducting gambling hells in Marysville, at the tables of which Cora had served; and when it was found that Van Read was actively engaged in efforts to clear Cora, the public thought there might be some foundation for the assertion that one gambler had murdered the marshal to enable another gambler to secure his place. Deep indignation, moreover, was felt at finding that the influence of the fraternity had extended even to Washington, and had seduced Senator Weller to abuse the confidence of the president of the United States by inducing him to make an appointment which thus appeared to further such a conspiracy.

When Cora was brought to trial it was found that the subscriptions of his fellow-gamblers and the lavish liberality of his paramour had not only secured a brilliant array of lawyers, but had hired and drilled a number of witnesses to testify that the marshal was about to kill the gambler when the gambler killed the marshal. James Casey, of whom more hereafter, spent money freely to clear Cora. And although the district attorney succeeded in demonstrating the perjury of some of the witnesses,

and several of the by-standers who had been summoned testified in the clearest manner that they saw both of Richardson's hands at the instant of the shooting hanging by his side empty, some of the jury, confused by the pleas of the lawyers, or influenced by the solid arguments poured from the prostitute's purse, refused to join in the verdict of murder in the first degree. Four months were then suffered to elapse without indication on the part of the authorities that another trial was about to be held; and the rumor that several of the witnesses for the prosecution had been bribed to leave the state, and that the next trial would result in the criminal's escape for lack of evidence, might perhaps have been verified by the result had not succeeding events aroused the people to administer justice without the intervention of lawyers and without the formal assistance of officers under whose manipulations criminals who could command money or political influence rarely or never suffered the penalties the laws provided.

James A. McDougall, afterward United States senator, was counsel for Cora. To say that he did not know his client to be guilty impeaches his intelligence; to say that knowing it he attempted to clear and loosen the bloodhound impeaches the integrity of the judicial system under which he practised.

A month after the occurrence the excitement which had well nigh called into action the old Vigilance Committee had died away, and an apparent apathy upon the subject seemed to have befallen the public mind. But this in reality was not the case. There was yet in this community a healthy determined sentiment regarding the public good. If the properly constituted authorities would punish crime, that was sufficient; if not, crime should not go unpunished. "The people of this city," writes Mr King the 12th of December, "are not in favor of taking the law into their own hands if justice can be done in the courts; and no class of men can be found in this com-

munity more in favor of law and order than the members of the old Vigilance Committee. But if the courts were to relapse into the former farcical apologies we had, it would require but a few hours to again call into action the same body of men, with the addition of, as before, the best business men of the city as members and co-workers."

With remarkable vigor and persistency Mr King continued the war. Evil-doers were ruthlessly hunted down and their misdeeds exposed, until the *Bulletin* editor was more hated and feared than all the emissaries of Satan. His strictures were not always just or judicious, but on the whole his influence was most beneficial. He dared to do and did what others scarcely dared to think. It was no groundless fear, this of his friends that he would be shot; but like a hero-martyr as he was, James King threw up his life at the beginning of the battle. He saw the city steeped in corruption, reeking in vice, groaning under burdens imposed by gambling officials, a reproach at home and a byword abroad. Yet he believed there were not wanting the ten men that should save it. He determined to break up the iniquitous nest of political pimps and murderous demagogues which infected the place, and he did it.

The storm which had been so long brewing at length burst with a fury little expected even by those who had invoked it. Among other infelicities of the day there was no little wrangling over the selection of custom-house servants, incident to the appointment of a new collector. In the *Bulletin* of the 9th of May 1856 was printed an article by a correspondent who signed himself "A Purifier," in which the name of one Bagley was mentioned as a person unfit for a certain coveted position, he having been indicted at one time for attempting the life of James Casey, a prominent politician, and proprietor of the *Sunday Times*.

On the 11th of May a communication appeared in

Mr Casey's paper, over the signature "Calaban." After accusing the *Bulletin* of inconsistency in condemning certain appointments of the governor and of the president, and praising certain others made by the collector of the port, the writer says: "Now, Mr Editor, the question arises, whence this great and monstrous sympathy for Mr Latham? I will tell you. Mr King, James King of William, has a brother who holds a lucrative position in the custom-house, under Mr Latham, and this brother is one of the proprietors of that consistent, courageous, independent, and immaculate sheet, the *Bulletin; hinc illæ lachrymæ.*

"Another point to which I wish to call the attention of your readers is this: the brother I allude to was an applicant for the office of United States marshal for California at the same time with Mr McDuffie. Is it not possible, ay, even probable, that the bitter, unrelenting, and malicious prosecution of that gentleman by the editor of the *Bulletin* was instigated by motives of revenge for the defeat of his brother, who I say is a large share-holder in the *Bulletin?*"

Thomas King, though heartily sympathizing with his brother and giving him his earnest support, was a very different kind of a man. Coarse, illiterate, and common in mind and manners, he carried about him that same vindictive energy which characterized his brother James, with this difference: James King's hatred of sinners sprang from a hatred of sin, and was sanctified by the noble purpose of cleansing society; and this because he loved purity and justice and abhorred vice. Thomas King hated on general principles. Had Casey been his brother he would have hated James King as heartily as he now hated Casey. That he was on the right side was owing to accident. Without being a very bad man or a very good one, he was full of explosive material which, like the paper cannon the Chinese make for our Fourth of July, was ready when ignited to burst out on its

weakest side. The expansive force of his passions was as likely to drive him downward as upward.

In the advertising columns of the *Herald* of Tuesday morning the 13th of May was the following card:

"A communication appeared in the *Sunday Times* of the 11th instant stating that I was an applicant for the office of United States marshal. I have called several times to-day at the office of Mr Casey, the proprietor of the *Times*, to get from him the name of the author, which Mr Casey promised to make known after first having an interview with him. At the hour appointed to-night by Mr Casey I called, but was unable to find him. Until I receive the name of the author, I wish simply to say that I never applied nor thought of applying for the office of United States marshal.

"*San Francisco, May 12, 1856.* THOMAS S. KING."

Thus it appears that Thomas King called on Casey for the authorship of the article, which Casey refused to give. "The writer is an old man," said Casey, "a man of peaceable habits, and rather than that he should suffer I will be responsible." Very kind of Casey. Tuesday morning King met Casey on Montgomery street, and again demanded the author's name.

"I will not give it you," said Casey.

"I will give you till ten o'clock to-morrow; if you do not reveal to me his name by that time you shall stand the consequences," said King.

"My mind is made up. I do not want ten minutes; I will not give it you!" replied Casey.

Next day, Wednesday, King sought Casey and found him, but made no demonstration of hostilities. He had promised his brother that he would not attack him; their weapon must be the pen, and in the hand of the reformer blows from it should fall heavier than those of a slung-shot.

Several months previous some of Casey's political opponents, of the same quality as himself, who knew somewhat of his antecedents, had sent east and obtained a certified copy of his conviction in New York for robbery, and his subsequent imprisonment at Sing Sing. This was shrewdly passed over to the common enemy, as the opposition well knew that Mr King

could use it better in their behalf than themselves, even if they had dared to publish such a statement regarding one of their own class.

In the *Bulletin's* editorial of May 14th James King of William says: "Among the names mentioned by 'A Purifier' in his communication of Friday last as objectionable appointments to the custom-house was that of Mr Bagley, who has since called on us, and by whose request we have made more particular inquiries into the charges made against him. On Monday we told Mr Bagley that we could not feel justified in withdrawing the general charge against him, for though in the particular cases mentioned we had not been satisfied that he was the party at fault, yet the general character we heard was against him. To this Mr Bagley urged that our informants were all enemies of his, which in one sense of the word is true, though they are not the persons he supposes. At our last interview with Mr Bagley we told him that if he could bring some respectable persons, known to us, who would vouch for him and explain away what had been told us, we would take pleasure in saying as much in our paper. Several such have called on us, but whilst they are unanimous in saying that Bagley behaves himself very well at present, yet when we ask them, for instance, about the fight with Casey, they cannot explain it satisfactorily. Our impression at the time was that in the Casey fight Bagley was the aggressor. It does not matter how bad a man Casey had been, or how much benefit it might be to the public to have him out of the way, we cannot accord to any one citizen the right to kill him, or even beat him, without justifiable provocation. The fact that Casey has been an inmate of Sing Sing prison in New York, is no offence against the laws of this state; nor is the fact of his having stuffed himself through the ballot-box, as elected to the board of supervisors from a district where it is said he was not even a candidate, any justification for Mr Bagley to shoot Casey,

however richly the latter may deserve to have his neck stretched for such fraud on the people."

This was the last editorial James King ever wrote; these were the words that cost him his life. The next day's editorial column of the *Bulletin* was a blank, speaking louder in its white empty silence than even when filled with the flaming words of its director.

The present issue was upon the street about three o'clock. The whole fraternity were watching for it, as it was generally understood among them what would be the result in case of further attack on Casey in that journal. Casey read it, and all within him became incandescent. Stepping quickly over to the editorial rooms of the *Bulletin*, which were then in the second story of a building on Merchant street, near Montgomery, he found King seated at a table in an apartment alone. An open door communicated with an adjoining room, where were two persons who overheard all that passed. Casey was much excited and out of breath.

"What do you mean by that article?" he demanded.

"What article?" asked King.

"That which says I was formerly an inmate of Sing Sing prison."

"Is not that true?"

"That is not the question. I don't wish my past acts raked up; on that point I am sensitive."

"Are you done?" asked King. "There's the door: go! never show your face here again!"

Casey moved toward the door, which was open. There he paused a moment and burst forth again:

"I'll say in my paper what I please!"

"You have a perfect right to do so," returned King; "I shall never notice your paper."

Striking his breast with his hand, Casey now cried, "If necessary I shall defend myself!"

"Go!" exclaimed King, rising from his seat.

Casey immediately went down the stairs.

This was about four o'clock. A few minntes past five Mr King left his office as usual for dinner. Passing up Merchant street to Montgomery, he walked northward along the east side in front of Montgomery block to the corner of Montgomery and Washington streets, where was situated a famous and fashionable drinking-saloon called the Bank Exchange, where prize-fighters and politicians used to congregate. Thence, without either slacking or increasing his speed, he started to cross diagonally to the northwest corner of the same streets, where then stood a one-story building occupied by the Pacific Express Company. When nearly across, Casey, who had been watching the movements of his enemy from the west side of the street, stepped forward on the sidewalk which King was approaching, threw off a short cloak which concealed a cocked pistol in his hand, and crying "Come on!" instantly fired.

"Oh God! I am shot!" cried King, and staggered into the express office.

CHAPTER III.

THE PRINCE OF VILLAINS.

Wouldst thou to honor and preferment climb?
Be bold in mischief, dare some mighty crime.
On guilt's broad base thy towering fortunes raise,
For virtue starves on universal praise.

Juvenal.

Casey was about fifteen paces from King when he fired. The weapon used was what was known as a navy revolver, being larger than the ordinary six-shooter. The ball struck the left breast, glanced upward under the clavicle, and passed out below the shoulder-blade. He was not a bungler at butchery. It was a good shot for fifteen paces; and mark, it was the left breast that was struck. He was not a common dark-lane cutthroat, or a garroting pick-pocket. He was a politician and an office-holder, and when he wanted money he took it from the public like a gentleman.

Assassination under his delicate touch was a moral lesson, or as De Quincey would say, a fine art, in which design, grouping, light and shade, poetry, and sentiment were duly considered. Immediately after firing he rested his revolver upon his knee and with both hands cocked it. He then took several steps toward King, eyed his victim narrowly, as if to satisfy himself that the work had been effectually done, then turned, let down the hammer of his pistol, picked up his cloak, and started for the station-house, to give himself up. All he asked now was a fair trial.

We shall know more of this man, for California owes him much; next to Mr King more than to any one else

the bringing to a blazing heat the fires of purification. If to suffer death for one's country be sweet, to inflict fruitful death is surely something. Had Casey and all his crew suddenly sainted themselves, and set about scraping and whitewashing wickedness, their efforts never could have achieved such beneficial results as accrued from that single pistol-shot.

True, if Casey had not fired it probably some one else would have done the killing; but that does not lessen Casey's merit. He was leader of a cause as well as King. He had his instruments, his organ, and hundreds waited on his words. Their doctrine was like the vulture's; some creatures are made to eat and some to be eaten; the same benign influence originated both; let each fulfil its destiny. But to the record.

On the 4th of September 1851 a convict named James Casey was discharged from the state-prison at Sing Sing, New York, having completed a term of two years of hard labor, to which he was sentenced for grand larceny. Coming to California, he displayed so much cunning and skill in political manipulations that he was soon elevated to a high position in one of the corrupt cliques which largely controlled both city and state governments. Like his *confrère* Broderick, he was a leader among the roughs; like him he joined a fire company, and was elected foreman. He established the *Sunday Times* newspaper, before mentioned, of which he was proprietor and nominal editor, though too illiterate to write for the press himself. As inspector of election of the sixth ward, he easily controlled the election of city and county officers, for as the sixth ward went so went the city and county. The sixth ward became famous under his management; and a desperate fight at a primary in the spring of 1855 made Casey himself famous. At the autumn election of the same year he was returned from the Presidio district to the lucrative office of supervisor; though at the time he was not a resident of the district, nor was his name

mentioned on election day as a candidate. Yankee Sullivan, however, certified that Casey was duly elected, and it must have been true, for the Irish prize-fighter was judge of the election, and had a good double back-action ballot-box, which no one knew how to slide but himself.

During these years Casey's industry and honesty had secured him a fortune of, some say, forty thousand dollars, while others deny that he saved anything from his spoils. At all events, as he was yet under forty he might have turned honest, retired on his laurels, and fattened himself, for he was as lean as Cassius. In this way he might have kept life within his body these many years had not honor pricked him on, or rather off, as Falstaff would say. Although he had adopted a middle name, represented by the letter P, to conceal his identity, he had been obliged to acknowledge his criminal career in court one day; but this did not in the least weaken his political influence, or lessen his eminent usefulness as one of the high officials intrusted with the management of the public finances.

Short of stature, slightly built, with delicate features, bright intelligent blue eyes, and very large brain, he possessed altogether an intellectual cast of countenance, in marked contrast to that of his brother assassin Cora, his friend and elector Sullivan, and his astute counsellor McGowan. Cursed with greater ability than these, he was well fitted to be their leader. Above a high broad forehead the head was thinly covered with dark sandy hair, and the thin florid face was bordered by short side whiskers. His mind was active, his disposition quick and resentful, and his temperament nervous-sanguine. His dress was that of a gentleman.

Thief, fireman, ballot-box stuffer, supervisor, editor, murderer. And this man had a host of friends. There was the right honorable Judge Edward McGowan, standing at the time of the shooting in front of the

Bank Exchange. Now Ned was not the most reliable of friends, even when the man he loved was a villain. Mr William B. Watkins, who kindly furnished me a most interesting and valuable dictation of his experiences in those days, is of the opinion that it was no other than Ned himself who furnished King with the certificate of Casey's Sing Sing service.

But if the archenemy of all the vagabonds was to be slain, then Ned was a friend of the slayer; for Ned was not conductor of a Sunday-school, nor did he pass the plate in church. It was rare fun for Ned to set King on Casey, and then Casey on King; and if each killed the other, or the hangman secured both, so much the better. Scarcely had Wednesday's *Bulletin* appeared upon the street before Ned had purchased a copy, and hurrying off to his much maligned Casey spread before him the infamous article with sympathetic eye but buoyant heart. He well knew the words to drop which would at that moment act upon the nervous, inflammable Casey as coals of fire upon gunpowder: the words to cause an explosion productive of happy horror to the ever-lucky 'Ubiquitous.' It is said that at this brief pregnant interview McGowan urged Casey to kill King, and either handed him his revolver with which to do the deed or offered to lend it to him.

Pete Wightman, the butcher, was there talking with McGowan at the time, and casting significant glances along the sidewalk leading from Merchant street. James M. Estell, of state-prison contract notoriety, who for Mr King's death did not put on mourning, was there; likewise Vi Turner, and not far distant Webb and Hawes, and many others.

The killing of King was not Casey's first offence, but the culmination of a catalogue of offences. Says Mr Farnham of his accomplishments: "He sold nominations to the highest bidder, taking money from all; he furnished judges, shoulder-strikers, and stuffers on election days; he procured, for a consideration, the

passage of fraudulent bills through the board of which he was a member." He was pronounced the most expert ballot-box stuffer and ticket-shifter in the world. Officer after officer he placed in power, and then shared with them the spoils. If Casey sat upon a ballot-box, it was sure to hatch him out a follower.

Though a good Catholic, he displayed absolute atheism in morality and honesty. He was a most worthy member of the society for the suppression of political morals; he was a just striker, a wise stuffer, a religious whiskey-drinker, and in all his family and social relations a warm-hearted and humane villain.

Thus we see that Casey was a first-class villain; indeed a prince. Tricky fingers had woven the thread of his destiny. He was not what Californians would call mean; he would not descend to petty stealings. Among his friends he had the reputation of being highly honorable, though revengeful toward his enemies. He was much more gentlemanly and chivalrous than many an honest man. He returned good for good, which is more than can be said of some. He had been taught from childhood to right his own wrongs.

How, as one studies society, the laughing light of the grotesque appears to view! How the irony of respectability and fashion displays itself in certain phases of the public morality and public sentiment which we so devoutly worship! There was one who was afterward among Casey's judges, a Judas, and a far worse man than Casey, a more dangerous man, because less manly and more hypocritically subtle, around whose neck Casey himself might consistently have placed the cord that should strangle him.

This man was a lawyer by profession, a trickster by practice. He was a slippery eel, foremost in society, church, and state. The devil is the most devout of worshippers. Shortly before his death Mr King had berated him soundly for certain of his dark ways, but by some means he had managed to get himself placed

upon the board which was to adjudge Casey, and now he was loudest in lamenting the death of the reformer, quickest in avenging it, and foremost in collecting money for the relief of his family and for erecting a monument over his remains, which last mentioned act was doubtless one of the pleasantest of his life; and for personal reasons he would have the dead man's covering heavy and substantial.

A story is told of this lawyer, who with a San Francisco speculator was once in London attempting to place some bogus mines, *et hoc genus omne*, upon that market. They quarrelled and went to law. A broker, well knowing both persons, happened to be in London at the time, and to him the lawyer applied for testimony upon the character of his opponent.

"You know this man?" queried the lawyer of the broker, referring to the speculator.

"Yes."

"You have known him long and intimately?"

"Yes."

"Have had business transactions with him, and know of his business transactions with others, and of his general character?"

"Yes."

"Now, Mr Broker, could you not testify for me in court that you would not believe him under oath?"

"O yes," replied the broker, "I could easily do that."

"All right," responded the lawyer, in a tone of great satisfaction, "I will send a cab for you at eleven o'clock to-morrow. Good-day, and many thanks."

"But, stop a minute!" cried the broker, evidently somewhat embarrassed; "once in court and on the stand, it is difficult to say what questions may arise. Now suppose he should ask me to testify the same of you. I should have to do it! I should have to do it!"

Clearly, then, there are villains that are hanged and villains that are not hanged. A little villainy,

like a little learning, is a dangerous thing. Often a double display of villainy makes a hero of him whom half the quantity would hang. Casey in such a murder deems himself safe enough, safer than if he had committed half as heinous an offence, from the fact that the very magnitude and boldness of the deed raised him up defenders who would have let him go to prison, thinking nothing of it, for stealing a horse, but in common with others as cunning and far-sighted as himself, the uprising of the people in such vast vehement earnestness was an event not reckoned on. Did not Cora shoot Richardson, and was not his case progressing finely? That there were men in the ranks of vigilance committees who should have been in the committee's cells; that there were thieves who turned thief-hunters and loudly shouted, 'Stop thief!' that scoundrels fearful of arrest joined the vigilants and were apparently most earnest in procuring the arrest of scoundrels, there can be no doubt. Many were the knees an accusing conscience made to shake whenever bells tolled the assembling of the people. There were others at that time of California, very respectable gentleman, who, if not as bad as Casey, were none too good to be hanged. The speculator of whom I spoke, rich and respectable enough as stock-gamblers go, would sacrifice his best friend, his wife, his mother, his soul, though that were the least part of him, for money. Casey was true to his friends; for when asked by his judges if he had taken any into his counsel respecting the murder before he did it, if any knew the deed was to be done, he replied, "No one." Yet afterward, namely, on Wednesday the 21st of May, Andrew Hepburn swore that Peter Wightman, butcher, a friend of Casey's, and Lafayette Byrne, deputy-sheriff, were on the spot at the shooting, and seizing Casey protected him from the fury of the people, and led him away to the jail for shelter. Lafayette Byrne testified that he was in conversation with one McGrotty just before the murder.

"There is some shooting to come off," remarked McGrotty.

"Yes?" said Byrne; "between whom?"

"King and Casey," answered McGrotty.

Robert Somerville testified:

"I was on the corner of Mongtomery street on Wednesday last, on the sidewalk in front of the Bank Exchange. I saw James King of William crossing leisurely, with his head down, from the place where I stood toward the Metropolitan saloon. I saw Mr Casey step out from behind a wagon standing in front of Phil's saloon. He walked quickly, and a little carelessly, and in a manner not calculated to arrest the attention of Mr King until within fifteen paces of him, when he suddenly stopped, threw off his cloak, presented a pistol, and fired at Mr King, at the same time saying something which I could not hear. Mr King did not appear to be fully aware of the presence of Mr Casey until he received the ball. Mr King then turned his face toward me, uttered an exclamation, and walked toward the door of the Pacific express office, where he staggered in. Casey moved a few feet sidewise or forward, turned and picked up his cloak, and walked to the corner of Washington street, where he was joined by two men, one of whom was Pete Wightman. They walked up Washington street toward the station-house, when I saw no more of them. About ten minutes previous to this occurrence I was standing in the Bank Exchange. Two men were drinking at the bar. One was Pete Wightman. They were suddenly interrupted by a boy named John Butts, who hastily entered and whispered to them, when they at once dropped their glasses and eagerly turned upon him.

"'Who told you so?' in one breath they both exclaimed.

"'Casey,' replied the boy.

"They instantly left the room. I looked after them, and saw Casey standing on the outside on Washington street, near the door where they passed out. I turned and made a remark to a gentleman that something was wrong. The gentleman replied that Casey had been in a moment before and handed Pete Wightman a pistol. This induced me to look after them, and upon going out I saw Wightman standing in front of the *Bulletin* office. I passed up Clay street, where I saw Casey standing on the corner of Clay and Montgomery streets. I then turned toward the Bank Exchange and passed Mr King, who was conversing with Mr Kingsbury on Duncan's corner. I looked back toward Mr King and saw that Pete Wightman had changed his position; he had approached nearer Mr King, and was standing and apparently watching him. A moment after this Mr King left Mr Kingsbury and approached me, when I saw Pete Wightman closely following Mr King. Mr Casey probably passed on the other side, as he had plenty of time to do so leisurely. I saw Wightman after this, and he had hold of Mr Casey. At the time these events were taking place the shooting occurred. All the circumstances that I have related occupied only about ten minutes."

This concluded Mr Somerville's testimony. From the words and manœuvring described by these wit-

nesses there is no question but that the premeditated deed was known to others. So at all events thought the grand jury, who on this same day presented indictments against James P. Casey, Peter Wightman, and Edward McGowan for the murder of James King of William.

McGowan himself says that on that afternoon he had been trying a case before Justice Ryan, which he had postponed until the following day. "After my client and I had stepped out of court," he writes in his narrative, "I saw the *Evening Bulletin*, containing the above remarks with reference to Casey. I had not up to this time even heard that Casey had had an interview with King. I went from the court-room down on to Montgomery street and stopped in the neighborhood of the *Bulletin* office. I saw many persons gathered in knots about the streets, and everything indicated to me that a fight was expected. It was now about twenty minutes to five o'clock. While I was standing on the street a friend informed me that Casey wanted to see me at a bar-room kept in the rear of the city hall by James Godfrey, Esq. I at once went there, and among a great many other persons I saw Casey. He and I immediately stepped into the alley on which the house is situated, and I there learned for the first time what had occurred between him and Mr King. He was very cool, but apparently very angry. He told me that his determination was to attack Mr King, and that he had finished the adjustment of his affairs, so that in the event of his fall there would be no difficulty about them."

The chivalry called the assassination a fight. The reporters of the journals and their witnesses on the stand all took pains to show that King was armed, and that Casey before shooting cried to him, "Draw and defend yourself! Are you armed? I am going to shoot you!" While awaiting death King assured his friends that no such words were spoken; and if they

were, all agreed that King had not time to avail himself of any benefit from them before Casey fired.

Faint from the sudden and dreadful blow which struck the life-impelling cord and well nigh let the hesitating spirit free, James King had scarcely strength to reach the room of the express company, where he sank into a seat. And, indeed, had not some gentlemen caught him he would have fallen upon the sidewalk. The wound bled profusely, and was very painful; but it was the murder of his high purposes that now most troubled him. There is something in the uncaging of an incarnated soul so painfully appalling that no man, unless thoroughly brutalized or diabolified, unless he were less or more than man, would dare to take upon himself the fearful responsibility of doing. The murderer knows not what he does. His crime is beyond the faculties of man to appreciate, as it is beyond the power of words to abhor. The more we anatomize this atrocity the more its hideousness is revealed to us. Who would not rather at this juncture be King than Casey?

A bed was quickly provided for the wounded man, and a number of the most skilled surgeons of the city were soon in attendance. The wound was dressed, and by the aid of morphine the patient was put to sleep. About seven o'clock Mrs King arrived and nursed her husband through the night. The next day he was removed to a room in Montgomery block, where he remained until he died, which was the sixth day after the shooting. Dr Toland testified at Napa, in the McGowan case, that there were not less than twenty physicians in waiting—surely enough to kill any man though he had not first been shot.

It is needless to say that all was not harmony among them. A small-sized surgeon's sponge was introduced to stanch the hemorrhage, and this was retained, contrary to the advice of some, up to the morning of the day he died. Says Dr R. Beverly

Cole, in a highly important narrative of the case which he has laid before me: "It was in consequence of the retention of the sponge for so long a time, which was in conflict with my better judgment, that I on the morning of the third day retired from and severed my connection with the case, not being sustained in my opinions and suggestions by the other physicians in attendance. Grave professional suspicion arose as to the agency of the additional shock to the nervous system produced by the removal of the sponge, and subsequent examination of the wound with the finger and instruments, in producing the sudden and unexpected termination of the case." Dr Cole is no less esteemed as a citizen than respected as a surgeon. He was a personal and intimate friend of Mr King, and took an active part in the movement which followed.

It was hard for Mr King to reconcile himself to die at this time and in this manner; no one knows how hard. He retained his consciousness to the last. He was young and strong, and nerved to a contest which all the world regarded with interest. His whole soul was in the battle. His enemies must now triumph; and his well nigh heart-broken wife and children must be left to make their way through life alone, penniless, and unprotected. During the first night of his illness he several times turned to Dr Cole and asked if in his judgment there was any hope for him.

Alas, no! Hope for him? Yes. Beloved of the gods, he was permitted in one short moment of time to cast upon the altar of his high and holy purpose the whole volume of his young ambition, and achieve by his death more than he could hope ever to obtain by a long and wearisome life. Blessed privilege!, To finish a worthy life-work just begun, by quick and glorious death!

There was quite a strange coincidence attending the threats made upon Mr King and his death. In

the course of some severe strictures on gamblers in general, and gamblers in office in particular, of whom Marshal McDuffie was one, in his editorial of the 21st of April Mr King says: "The allusion made by our correspondent to the reckless character of the gambling fraternity in this city, so far from deterring, only excites us to renewed efforts to expose them in their true colors. The *chevaliers d'industrie*, with their courage, desperate determination, and the amount of available wealth at their disposal, will find that they have met with an opponent who cannot be turned from his course by all the force that can be brought to bear in their behalf. We were this morning told that bets have been taken that in thirty days both this gambler McDuffie and ourself will have a resting-place at the Lone Mountain cemetery, and these bets are made by gamblers. We are opposed on principle to betting, or we would take the offer as to one of the parties mentioned. But this is all fol-de-rol. Do these gamblers suppose that brute force can decide such questions to the satisfaction of the public?" April has thirty days. On the 21st of May, James King of William was laid in Lone Mountain.

Mr King was, in my opinion, unjustly severe upon gamblers. In politics and morals he was a pessimist. He would have no man in office if he ever had been a gambler, without the most convincing proofs of his repentance. He would rule every man out of society who had ever gambled, and publicly brand him with infamy. Now a man need not necessarily be a bad man, a dishonest man, a licentious man, a brawler, or even an irreligious man, because he is a gambler. Were it so, God help California! for every other man in it is a gambler of some sort. Bootblacks and millionaires, clergymen, professional men, and women gamble in stocks; merchants engage in gambling speculations, miners bet their labor against the gold supposed to be in the claim. Agriculturists by putting in their crops wager that it will rain, otherwise they lose their labor.

Of course I would not be understood as comparing the risks of agriculture, mining, and merchandising with the betting of money against money, wherein there is always injury on one side and unjust gain on the other, wherein there is no gain but a great loss to the community; but between dealing in stocks for an advance or decline and the quicker and usually fairer risks of the gaming-table I see no difference, so far as the moral aspect is concerned or the evil results flowing therefrom. On the one hand I find no fault with all this, on the other I have no disposition to defend gambling or any other vice. I complain only of the inconsistency of the thing. He who in another condemns faro, when fairly dealt, while he himself deals in mining-stocks in the ordinary way, is either stupid or dishonest. I never placed a dollar on a gaming-table in my life. I never entered a club-room where gambling was practised, nor any private gambling-room. I never associated with gamblers, never had a friend who was a gambler, and have no sympathy whatever with the fraternity. I regard the gambling principle as one of unmixed evil. And yet I would be honest with the gamblers. I would vilify them not one whit quicker than I would vilify woman, the loveliest handiwork of the creator, or than I would vilify undefiled religion, the holiest and most exalted of sentiments. In an analysis of society, I would mingle the pearls and the swine together, and if I saw falsity in the former and truth in the latter, I would so regard them. This wilful blindness in observing ourselves, and slavish obedience to all the mandates of form and fashion, I regard as among the greatest evils of the day. Why not recognize intelligence in an oyster, or speed in a snail, or morality in a gambler, if such qualities be there!

In every occupation there are classes and grades. There is as much difference between an honorable gambler and a thimble-rigger as between an honest auctioneer and a Peter Funk. There are gamblers

who would no more think of committing an unjust or cruel act than would a high-minded clergyman or a tender-hearted woman. There are gamblers who are magnanimous friends, kind husbands, good fathers, and would be useful members of society did not society indiscriminately set her heel upon them; nor would I blame society in this if she felt so disposed, if society would only set her heel on stock-gambling clergymen and immaculate matrons, or otherwise manifest some degree of consistency in her heel-crushings.

And now let it be recorded and so handed to posterity. Honor to James King of William! Let all the people praise him, who did that for California's purification and fair fame which no other did, which no other dared to do. Let generations upon generations praise him who gave his blood to wash the stains from their inheritance. Let the hills and valleys of this fair Pacific slope, the sea, and the quiet towns and busy cities that stand beside it, praise him whose voice purified the air, whose pen cleansed the sewers of society, and whose example inspired his fellow-citizens with courage to do the best and noblest, stimulating them to that high endeavor whose fruit is peace, civility, and proud prosperity. The usefulness of his life was only exceeded by the rich results of his death. His enemies, the enemies of justice, morality, and gentle citizenship, slew him; but from every drop of his spilled blood there shall spring a hundred avengers, which shall be as dragons' teeth in the vitals of evil-doers, bringing upon them swift destruction!

CHAPTER IV.

THE LOOSING OF LATENT LAW.

1st Gent. An ancient land in ancient oracles
Is called "law-thirsty;" all the struggle there
Was after order and a perfect rule.
Pray, where lie such lands now?

2d Gent. Why, where they lay of old—
In human souls.

We have seen on one of the corners most thronged of the busiest street in San Francisco, before the close of business for the day, one of the most respected and useful members of the commonwealth shot, so that the sixth day thereafter he died.

It was not a common murder; it was a sacrifice to Satan. The man was offered up for the principles he pronounced. He had been a reformer. He was not a Messiah; certain persons representative of a class had cheated him, and he hated the cheaters and the class. He was a good man as the world goes, and his championship was for the right. He had failed as a banker; and having suffered severely from the sins of certain of his fellow-citizens, he flung down the gauntlet and declared a war of extermination. To this end he forged that most formidable weapon of an earnest and able freeman, a newspaper. As editor of a daily journal he cut right and left into the ranks of corruption until the enemy, exasperated, rose and with powder and ball retaliated.

The people were profoundly moved. Whose turn next? each asked himself as he walked to and from his business. Gradually had arisen among the industrious classes a feeling of insecurity concerning life

and property, which now broke out in open alarm. To the government under which they lived the people of California were devotedly attached. Around it in the minds of some clustered sentiments warmed to enthusiasm by ancestral tales, associations which glowed with as pure a patriotism as ever inspired lovers of liberty. Others, strangers, out of all the world's politics had chosen the social and political institutions then unfolding in these Pacific States of North America as the fittest under which to live, and had cast in their lot accordingly. Both Americans and foreigners respected and loved the laws under which in California they found themselves, and of their time and substance contributed liberally and cheerfully for their support. In return they asked only to be protected from those social carnivora whose profession it was to prey upon industry. And this was their right.

But such protection they nowhere found. Their situation was most anomalous. Lovers of quiet, law-abiders, conscientious in the discharge of duty, as free as under fashion and their nature human it was possible for man to be, and as strong and determined as they were free, they yet groaned under a despotism compared with which feudal serfdom was liberty itself. Their protectors were their natural enemy, from whom they must seek to be protected, and who had fastened upon the virtuous portion of the community the fetters forged by themselves. They were heavily taxed for the benefit and support of the very class for whose destruction they paid taxes. The tables of law were turned upon the law-makers by the lawless; vice had seized the reins of government, and was driving the people to destruction. Thereupon arose James King of William and denounced such doings; and for this boldness he was slain.

The striking of Casey's ball against King's breast was like the dropping of a bowlder into a lagoon. A sudden splash followed. Then round the immediate spot were the surgings and foamings accompanying

the loosing of human passions; a little away were the waves of swelling excitement, unbroken as yet by the central ebullitions, while still more distant the circling agitation spread until the farthest outskirts of the country were reached, and every drop of manly blood within its borders tingled from the blow.

It was every honest man who was struck. Villains alone were on the striker's side. The good citizen knew this; knew it without being told; and rushing instinctively to his room for his revolver, he belted it on as he ran toward the scene of commotion. Shortly after the shooting sounded the Monumental bell, silent so long in the people's sacred cause—sounded amidst the storm like a resurrection note; and had it struck of its own volition its hearers would have scarcely manifested surprise.

From the spot of the shooting to the station-house, or old police prison, was less than a block. No sooner had Casey fired than his friends closed round him, and hurrying him thence locked him up. But this sort of thing was becoming stale. A repetition in this instance of the old form of justice would make the very stones cry out. And as if, indeed, the stones had turned avengers, men rose as from the ground; whole blocks emptied in an instant their contents upon the thoroughfares, and before the friendly bolt was turned on Casey, not more than three minutes after the fatal shot was fired, the streets in that vicinity were packed with people. Louder and louder pealed the Monumental bell, and from afar the angry tide set in, pale rage chasing wonderment from the face of each arrival as with muttered curse the tale was told him.

"Where is he?" they cried, becoming tigerish. "Hang him!" "Run him up to a lamp-post!" Those round the city hall rushed for the police quarters with bloody yells of "Hang him!" "Bring him out!" "He will get away if left with the officers!"

All the while the officers had been upon their guard

lest in the event now happening they should be taken at a disadvantage. All doors were doubly bolted and the entrances to the police quarters strongly barricaded.

Quick to discern in the low deep-toned imprecations the quality of the approaching storm, the officers and the friends of Casey saw removal to stronger quarters essential to the prisoner's safety. He must be taken to the county jail, on Broadway; but the question was how to get him there. After several ineffectual attempts a carriage was stationed on Washington street at the entrance of Dunbar alley, which leads to the police prison, and Casey thrust into it, Marshal North sustaining him on one side and Charles P. Duane on the other. Officers with drawn weapons filled the vehicle; Billy Mulligan and other friends mounted the outside before and behind, covering instantly with their pistols any obstreperous mobite. The driver applied the whip; the horses in a few plunges cleared the crowd and were away up Kearny street and round the corner to the jail, an infuriated crowd following some fifty yards behind.

Gathering round the place, the throng rapidly increased. A dense mass of enraged humanity came streaming thence through every thoroughfare leading in that direction. Upon a bluff that rose above the street on the opposite side, and in the space before the jail, stood a large body of officers, in the midst of whom rose Marshal North, all of whom were active in warning the people not to approach. "Hang him!" was again the ejaculation. "Arrest the officers!" "Good! that's it!" "Let's take the jail!" and like exclamations burst from every quarter.

At this moment some one seemed desirous of addressing the people, but so great was the confusion that he could not be heard. He attempted to mount the bluff, but was beaten back by the officers. George W. Frink, then proprietor of the Tehama House—and from his own mouth I have it—was standing on

the jail step at the time. He saw this man, much excited, turn from where the officers had stationed themselves, cross the street, and mount the balcony of a two-story building. There he began again to talk.

"Who is that?" cried one.

"That is Thomas King——!" shouted Frink.

"Stop, or I will arrest you!" exclaimed an officer, seizing Frink by the coat-collar.

"——Brother of James King of William!" continued Frink, paying no attention to the officer. Mr Frink well knew that it would be far easier for him, with the angry city on his side, to take in custody the officer and all his associates, than for all of them combined to arrest him.

King then continued his harangue, which was mostly a recitation of personal wrongs at the hands of the incarcerated. Of the shooting he said: "My opinion is that it is a cool, premeditated, and cowardly murder, by the hand of a damned Sing Sing convict, and by a plan of the gamblers of San Francisco. About an hour ago I was in at old Natchez' pistol-gallery, and he told me that my brother was to be shot. If he knew it, did not the gamblers know it? and was it not a premeditated plan? Why did not the officers know it and interfere? Gentlemen, we have got to take that jail, and to do so we must kill those officers unless they give way to us, and we must hang that fellow up!"

Cheers followed the sanguinary oration; but it was not in this wise the insulted city would lend itself to revenge. An officer then made a movement to arrest Mr King, but Marshal North interfered, telling his men to mind nothing the people should say. Finally King was persuaded by his friends to enter a carriage and leave the ground.

Next a row of bayonets was seen rounding the corner of Dupont street, and the people, supposing them borne by their allies, raised a shout, which was quickly turned to hisses when they ascertained the

soldiery to be volunteers in citizens' dress come to assist the police in maintaining order.

At half-past six Mayor Van Ness appeared before the jail with uncovered head, requesting to be heard. Quiet was given him, when he said: "You are here creating an excitement which may lead to occurrences this night which will require years to wipe out. You are now laboring under great excitement, and I advise you to quietly disperse. I assure you the prisoner is safe. Let the law have its course and justice will be done." He was answered by shouts of derision. "How about Richardson?" "Where is the law in Cora's case?" "Down with such justice!" "Let us hang him!"

Half an hour later another squad of citizen-soldiery appeared upon the scene, and as they were crowding their way to the centre some dirt was thrown at them, whereat the officers on the bluff levelled their weapons at the offenders, but were promptly checked, and were told not to fire upon the people without positive orders. Time and way were not yet; it was not by flinging dirt that San Francisco was to be regenerated. Besides the volunteers, the San Francisco Blues and other military companies turned out, and recruits continued to arrive, until at ten o'clock three hundred men guarded the jail, armed against the citizens. Meanwhile groups collected at the spot of the assassination, at the Plaza, and in the streets in various parts of the city, until half the town by the friction of electrical words were stirring the atmosphere in the invocation of cleansing storm.

Between seven and eight o'clock ten thousand persons had collected on Montgomery street, between Clay and Washington. On the balconies of the houses lining those streets were vehement speakers, cheered by the people, making flaming appeals for vengeance on the murderer of their champion. At length the question was put whether they were ready to proceed to action at once. A unanimous "Ay!"

rose from the vast assemblage. It was then proposed that all should disperse, arm themselves, and meet on the Plaza at nine o'clock. At the time appointed the Plaza and all the avenues approaching it were thronged. Officers of the law and military men were groaned at and hissed whenever they made their appearance. The authorities seemed determined at all hazards to keep possession of the prisoner; his escape from their hands at this juncture would have been death to themselves as well as to him. No organization was made that night on the Plaza. At half-past eleven a mounted battalion consisting of the California Guard, First Light Dragoons, and National Lancers were drawn up on Kearny street, and after taking arms and ammunition proceeded to the jail on Broadway, and there stood guard during the night.

Let us mix with the people and individualize our observations a little more. Thomas J. L. Smiley, so efficient in the first Committee, and destined to yet more important trusts in the second, was closing his business for the day, when, hearing the old familiar signal, he dropped everything on the instant and joined his fellow-citizens on the Plaza.

James N. Olney, subsequently prominent and most efficient in vigilance military matters, had not as yet attached himself to any company in this country, though he had always been a military man, and had raised a company at Oakland, New York. He had not yet moved to California when the first Committee flourished, and hence was unable to distinguish the color of the clouds from experience. Neither had he heard anything spoken, in so many words, about extra-judicial justice, or the organization of a body of men to change the state of things. And yet when the Monumental bell struck, directed by his intuitions, he ran for his revolver as naturally, almost as involuntarily, as one throws up one's arm to ward off a blow at one's head. "I went for my pistol," says

General Olney in his dictation, "and came down and found that many others had done the same thing. There was a feeling prevalent that something must be done, people hardly knew what. Then there began to be gatherings and discussions, and the talk was generally that a vigilance committee must be formed. I presently heard that there was a room where they were gathering for the purpose of forming such a committee. I went there and found quite a number of people, and the matter was being talked over."

Oliver B. Crary, ship-captain and merchant, in an interesting narrative given my reporter, remarks: "Dempster and I got the notification too late to attend the first meeting. The next morning at breakfast Dempster said, 'We must attend to that thing to-day. I will go down to the office and tell Eben Hartshorn.' And we went."

J. D. B. Stillman, after speaking of the flight of Casey from the police prison to the jail, and the angry demonstrations there indulged in by the people, continues: "Then word came and was circulated through the crowd that there was to be a meeting at Montgomery block. A Committee of Safety was being organized; and as the crowd were not in condition to carry an assault against the jail, filled as it was with the sheriff's party, the people gradually dispersed. At that time the Vigilance Committee was managed as a close corporation; I joined afterward when several thousand were members."

After introducing Thomas King to the citizens assembled at the jail, Mr Frink, who had been called by the excitement from the dinner-table, returned home to the Tehama House. "Jerome Rice," who was living there at the time, says Frink's narrative, "and Professor Otto Sutro came to the office and told me there was to be a meeting at the Pioneer Hall, on Washington street, near Kearny, opposite the Plaza. I went up with a number of the hotel guests. There we were requested to sign our names for calling a

Committee of Safety. It was then about eight o'clock. We were then instructed to meet at a later hour at G. B. Post and Company's warehouse, at North Point. We went, and found the second story filled with people, all wanting to talk at once. Among those who got a word in edgewise were William Arrington, William T. Coleman, and G. B. Post, who was considerably tight. He insisted on going right to the jail and taking the men and hanging them; and some of the others agreed with him. He said he had arms enough to batter the jail down. The result was that the meeting broke up without any concert of action. On going outside the building we found two carts, on each of which was loaded a ship's cannon. I called Coleman's attention to this, and said if they were left there the roughs would get hold of them, and they had better be put into the store-house. He agreed, and they were put inside for future use." Mr Bluxome designates the meeting as "more a mob than anything else." Mr Watkins says, "I was down there at the time of the meeting, but came back and found that some of the members of the old Committee were organizing in the rooms over the Bella Union."

I may as well here state, if indeed such an avowal be necessary, that it is my sincere desire and my determined purpose in this work, as in all my writings, to present plain unvarnished truth, stripped of favor or prejudice. The best, the noblest, have their faults. My candid opinion is that no better or nobler men ever lived in any age or country than those who conducted this movement. I shall not go out of my way to pick flaws in their character, or to parade those little defects incident to human nature. I wish them to stand, as they deserve, high in the estimation of all good men throughout all time. I shall present them proudly before the world as nature's noblemen. But on the other hand I shall not go out of my way to cover their faults. I cannot. The charm of history

to me, is truth. The moment I suspect myself prejudiced on any subject, I take no further pleasure in it. This digression I feel necessary in view of Mr Frink's statement concerning drinking and its effect upon the initial meeting. It was the custom, a most deplorable one, among all classes in those days to drink at bar-rooms, and elsewhere, when not absolutely thirsty; to drink at irregular intervals, and in no measured quantities, according to time, place, and state of feeling. This kind of drinking was the rule rather than the exception, and indulgence affected in no wise a man's respectability. Drunkenness was a different matter. But from moderation to excess is in some instances an almost imperceptible step. He who drinks at all may take too much at a time when he can least afford it. A merchant, no more than a monte-dealer, may exceed his measure of fiery liquid without being affected by it. There were many among the members of the Vigilance Committee who drank, some to excess; but they were by no means an intemperate class. Many did not drink at all. Those composing the Executive Committee of 1856 could scarcely be called drinking men. Nevertheless, whatever the extent of the vice, or however the custom may be regarded, it is no part of my duty or inclination either to expose or cover it. I present the facts.

James D. Farwell, returning from an absence, found "the public feeling very much excited, and it did not take long to work it up into the systematic form it took. It did not require much time, because our minds were made up, and besides we had the example of the first Committee. We found the time had come to act."

William T. Coleman appeared upon the Plaza after a hasty dinner, taken between six and seven o'clock. He found himself among a surging mass of people, well nigh wild in their violent demonstrations. As he approached a large group on Washington street, Arthur Ebbetts, George Ward, and others, mem-

bers of the Committee of 1851, stepped forward and said:

"We were looking for you."

"For what?" asked Coleman.

"To organize the Vigilance Committee," they replied. "Discussion is unnecessary. This state of things has been borne long enough. We can endure it no longer. We must organize, protect ourselves, and save the country, or submit to further disgrace and ruin."

Coleman acquiesced in their sentiments, thanked them for the offer of leadership, but declined, saying he would assume his share of the risk and responsibility, but would serve in the ranks only. "I went my way," he says in his narrative, which is very full and of inestimable value to the annalist of this epoch, "comparing notes with people I met here and there, doing all I could, endeavoring rather to allay excitement. I called on a number of people; and wherever I met them, I advised them to be calm, and not allow the city to be disgraced by any excitement, or any ill-advised expressions even. There was a great diversity of opinion, and nothing could be gained by rashness; a great deal might be lost, certainly would be. Later, meetings were held at different places, and all sorts of propositions put forth. Different attempts were made to organize a committee, seemingly without any good prospect of success. I did not share the excitement to the extent I found many of my friends did; excitement did not seem to be the remedy, nor needful."

These the actual thoughts and experiences of the men who were foremost in what followed at the momentous inception of the scheme of reform cannot fail to impress us with the necessity of its formation, the spontaneity of its origin, and the earnestness and disinterestedness of those upon whom the burden and responsibility were destined to fall. From them and from what else has been written, the reader may

form an approximate idea of what every good, patriotic, and right-minded man then in San Francisco did on this night of the 14th of May. That is to say, given the bent of the man's mind and its surroundings, his action may be easily determined. Casey's pistol-shot was the applied match which should release the governing power latent in every free people, and whose full volume and strength the possessors themselves never before suspected.

When James King, as the representative of those most eagerly laboring for public virtue, was shot down by a convict whose vicious career had made him a fit representative of the thieves and ballot-box stuffers who had secured public station, and the community saw him surrounded and protected from the anger of the by-standers by sympathizing friends among the officials, and hurried to the jail as a refuge from popular indignation, thousands who had previously hesitated felt that the time for action had come, and leading men who had argued against popular organization realized that the issue was then and there forced upon them; that longer delay would only invite new outrages, if it did not, indeed, result in spontaneous combustion; and the passions of excitable men would be kindled into a blaze which might prove uncontrollable. The assassination was generally regarded as the result of a conspiracy. While a thousand homes were stricken with indignant horror, the friends of Casey could scarcely restrain their joy.

The excitement attending the outrage partook more of anger than surprise. It had been for some time past current opinion that King's assaults on the band of conspirators, who had divided nearly all the people's power among themselves, would eventually prove successful in accomplishing their downfall. It must be so. The central power of a community must be upon the side of right and morality; otherwise chaos quickly comes. But it was none the less certain that in their fall they would drag down him who caused it; that

maddened by exposure and loss of power some one of their number would be found desperate enough to silence the voice that spoke their destruction. It was not surprise that caused men so suddenly to drop their merchandise and abandon their work-benches for the gossiping street; it was not solely affection for Mr King, though his unspotted integrity, warm heart, and high aims had won largely upon their kind regards; neither was it alone admiration for his daring, his perseverance, or his power as a reformer that drove the masses with close-set lips and flashing eye to spontaneous gatherings. It was the conviction that the man they loved, their champion, had been stricken down because he was their champion; and if they did not now proceed to enforce the law and execute justice, they would deserve the inevitable consequence, the still greater insecurity of property, liberty, and life.

Why was there not an attack on the jail that night? Why was not battle raging and blood flowing on the streets immediately? Mark the query, for the cause is most significant. It was an old issue, and Californians are accustomed to act quickly. Almost instinctively men on both sides seized their arms. Why did they not use them? The reason is because the people had no organization, no leader. The citizens were very angry; but they were not so bereft of their senses as to turn themselves into a mob and their city into a slaughter-house. There were men enough among them fit to lead, but not one of them would lead a rabble. They must have authorization; God and the people must be with them, must direct and sanction their acts—then they would fight. But not one blow would they strike for passion's sake, for hate, or revenge; not one drop of blood would they shed unhallowed by authority. Cry your reverence for forms of law to bigots and simpletons; here was the mighty power of law before which these breakers of formulas curbed their fierce passions and bowed with a dutiful

obedience never so much as felt by mere sticklers for forms. Here was the sacred power of nature, of man, of morality, of right; and the people, though surging upon the angry waves of tempestuous wrongs, would not stir to battle without the benediction of the inherent and central power.

CHAPTER V.

GENESIS OF THE GRAND TRIBUNAL.

Anarchy plus a street-constable; that also is anarchic to me, and otherwise than quite lovely. *Carlyle.*

EVERY organized movement of the people has two distinct phases or conditions, an internal and an external. The visible cause and effect take on invisible agency, the invisible being no less real and substantial than the visible. The power which regulates does not make society, but is made by it; or, more strictly, formulated social force is a product rather than an agent; and aggregations of men, *a priori*, are in their quality and character determined and governed by the properties of the units. The sun beats up moisture—from the briny ocean clouds distilling fructifying rains, from stagnant pools miasmatic vapors breeding disease and death; so necessity, or progressional force, acting on society, from the fermenting follies of ignorance and superstition distils chaotic passion, and from its moral ideal cohesive life and advancement.

Hitherto this, the grandest of all popular exhibitions, has been seen only upon its surface; the hidden and secret springs of its machinery have been kept carefully wrapped in mystery. The world knew not the noble apostles of this reform. The disease and the cure only were visible; the medicine with its subtle chemistry was known alone to the physicians. Day by day the public knew what was done; but how or by whom, it did not know. Into this latter

category falls this, and the greater part of the immediately succeeding chapters, which I shall endeavor faithfully to present as it came to me fresh from the lips of the actors themselves, and from the archives of the association. It shall be my aim to carry side by side in this narrative both the inner life and the outer expression of the movement, so that it may be seen in its entirety, so that it may be felt in its continuous flow a mighty stream of popular will, its bank of vice-bound superstition burst, coursing its way through untried fields.

We have seen the cause, the climax; we are now following the remedy. The immediate fear of the better-minded was an outbreak of ungovernable passion on the part of the people, which would destroy all the benefits of the lesson to be taught and carry to its absurdest extreme that very doctrine of retaliation which it was their chief purpose to disavow. Coleman saw this danger from the beginning; so did many of the others; and throughout the whole reform the difficulty was not in going forward but in holding back. This will be more clearly seen as we proceed.

It is not necessary for me to particularize all the numerous projects for avenging the assassination of Mr King immediately after the occurrence. The sentiment of the people at the police prison, at the jail, on the street, and at the North Point meeting, has already been noticed. In several places about town, as the Pioneer Club, the rooms over the old Bella Union, a saloon fronting Portsmouth Square, on Washington street just above Kearny, on the Plaza, at the office of Aaron M. Burns, and elsewhere, attempts were made to organize; but this was too mighty a matter for cliques or clubs to handle. The exigency demanded men, all the men, the strongest and best of the town. Following the narratives of Frink and Coleman, we left these gentlemen returning from the meeting at G. B. Post and Company's warehouse, where nothing definite had been accom-

plished. It had been spoken of upon the street that a meeting was in session there, as at Pioneer Hall and at other places. So merchants and others hastened thither to learn what was to be done, and finally after no little unfruitful discussion, becoming wearied, they dispersed informally. It is one thing for a rabble to talk of hanging, or even to do it; but it is quite a different matter when the pillars of society contemplate removing their support from underneath the social structure and turning public judges and executioners. There is no wonder that men substantial enough to be pillars at all should pause before kicking down what they all their lives, they and their fathers and grandfathers, had been holding up as worthy and worshipful.

Walking up Washington street from North Point, the two citizens continued their conversation as to what should be done. There had been much talk of reviving the old Vigilance Committee; the rumor was abroad that this was being accomplished; the people were prepared, nay exceedingly eager, for such an announcement. In view of the absence of any apparently more feasible plan, Frink fell back upon the old proposition, and advised calling a meeting for the next morning.

"Do you know of any good vacant building that we could get?" asked Coleman.

"Yes," Frink replied; "the hall on Sacramento street, near Montgomery, formerly occupied by the know-nothing association."

"The use of that hall might smack of politics, and so prejudice our cause with many," remarked Coleman. "There are difficulties enough to meet without increasing them unnecessarily."

"That objection amounts to nothing," said Frink. "Political jealousies are swallowed in a surging sea of pure patriotism. We can use that hall temporarily, and then adjourn to a more fitting place as soon as we can find one."

The measure was agreed upon. Stopping at the Bank Exchange, Coleman wrote a call for a meeting.

"How shall I sign it?" he then asked.

"Put your own name to it," said Frink, "as you are one of 'the Thirteen' of the old Committee."

"No," replied Coleman; "let it be 'One of the Thirteen,' as we disbanded under the name of 'the Thirteen.' To this Frink assented. The call then read as follows:

"THE VIGILANCE COMMITTEE.

"The members of the Vigilance Committee, in good standing, will please meet at No. 105½ Sacramento street, this day, Thursday, 15th instant, at nine o'clock A. M.

"By order of the COMMITTEE OF THIRTEEN."

Of this notice Coleman made two copies and Frink three. The two gentlemen then went to the *Alta* office, where they saw Mr MacCrellish, the proprietor, and Mr Fargo and Mr Buffam, then on the editorial staff. They found these gentlemen much concerned as to the proper course for their journal to adopt under the present turbulent excitement.

"Two editorials have been written and torn up," said MacCrellish, "and with the third we are not satisfied."

"Let us see it," said the visitors. It was produced and read to them.

"That will not do," exclaimed Coleman. "You say there was an affray on the street. There was a murder committed. Tell the facts as they are."

Thence the two gentlemen proceeded to the offices of the *Chronicle*, the *Herald*, the *Courier*, and the *Town Talk* respectively, where they were courteously received, and insertion of the notice promised in every instance, free of charge. Thus flew the hours till past midnight. One o'clock in the morning found the two men at the door of the hall on Sacramento street knocking for admittance.

"Who's tare?" came in deep Dutch tones from within.

"Tell us: is this hall empty, and who is the agent?"

"Tamt if I know, this time o' night."

"Never mind," said Coleman, turning to his companion, "the people will get into it in some way in the morning. Let them alone for that."

Thus closed the night of Wednesday, the 14th of May. Early next morning, long before the appointed hour, an eager throng pressed round the entrance to the place of meeting, which was on the upper floor of a three-story building. This hall of the know-nothings, which was situated on the south side of Sacramento street, between Leidesdorff and Sansome, and in which only one meeting was held, must not be confounded with the permanent quarters of the Vigilance Committee, sometimes called Fort Gunnybags, situated on the same side of Sacramento street, below Front.

It was as Mr Coleman had surmised. The people had come and had found a way into the room; what was one sleepy Dutchman to wide-awake San Francisco? When Arrington, Taylor, Burns, Gillespie, Manrow, and others destined to play conspicuous parts in the unrehearsed drama arrived, they found the hall crowded. Then, as Mr Dempster remarks in a most able and eloquent narration, prepared for me with great care, a narration in which the heart-beats of the movement seem to pulsate under his pen: "Somewhat reluctantly, but none the less resolutely, the men who were entitled to lead stepped forward, and with administrative energy, but with solemn deliberation of manner which betokened their appreciation of the weight of responsibility assumed, began to organize the eager masses, whose fiery enthusiasm urged instant action. Their demeanor quickly won the trusting confidence of those to whom they were personally but little known, and all authority was confided to their hands."

As briefly as possible the preliminaries of organization were discussed—how it should be done, and who

should take the lead. William T. Coleman, all things considered, seemed to them fittest for chief. He was a well known merchant, and his name would command respect and inspire confidence. Against his honor and integrity suspicion had never breathed. Able and influential, he could likewise bring to his aid his former experience gained in the Committee of 1851, of which, as we have seen, he was an efficient member.

"It is a serious business," said Coleman, as the question was presented to him. "It is no child's play. It may prove very serious. We may get through quickly, safely; we may so involve ourselves as never to get through."

"The issue is not one of choice but of expediency," was the reply. "Shall we have vigilance with order, or a mob with anarchy?"

"On two conditions I will accept the responsibility," replied Coleman; "absolute obedience, absolute secrecy."

It was agreed that these should be the corner-stones of the structure. Ten of those present, of whom Aaron M. Burns was one, were named to prepare the form of an oath of fealty to the association, which which would pledge the taker of it as fully and as strongly as the power of words could bind; which would pledge inviolate secrecy and implicit, unquestioning obedience to an executive committee to be appointed; which would pledge property, honor, life, soul, all that man has or is in this world or in the next. Mr Coleman was the first to subscribe to this oath as president and No. 1, with power to organize, such being the expressed sense of the meeting.

The executive body, as a matter of course, was to be representative of and chosen by the general body. But it was stipulated by Mr Coleman on accepting the presidency that he should be allowed to choose his first council, subject to the approval of the whole Committee. This was a most important measure, as

by it alone could he secure such support as would insure unity of purpose and directness of action. Thereupon he proceeded immediately to call round him such men as he could rely on for wisdom and energy. To the first half-dozen subscribers he administered the oath himself. He then requested these to name others from whom he might select. A book was then opened and the work of enrolment went on. It was agreed for greater safety, for better working results, that the organization in all its severalties and units should be entirely impersonal; that no names should be used, but that each member should employ the numerals designating the order of admission in place of his name, and that each should be known only by his number. This was carried into operation with much more completeness in this association than in that of 1851, where it originated and was practised to some extent.

Mr Burns was No. 7. William B. Watkins' name was among the small numbers. After thus writing himself high among the rebels against wickedness he was stationed at the foot of the stairs, in company with Jerome Rice and others best acquainted with the character of the persons and classes applying for admission, to permit those only to pass who were of good standing in the community. Frink's number was 26. He was a little tardy that morning, having been up so late the night before. While speaking with Mr Rice at the door, Mr Dows, then assistant alderman, came up.

"How is this, Frink? Is it sound? What do you think of it?"

"How do you stand on the question?" asked Frink.

"I am with the Committee," replied Dows.

"Then join it," said Frink.

Mr Farwell found a dense crowd upon the stairs as he forced his way in and wrote down his name opposite No. 17. Isaac Bluxome junior subscribed his name at 33, and became famous as '33 Secretary,' this

being the symbol of the same person representing the same dread power which in the first Committee was known as '67 Secretary.' Mr Smiley was the twentieth to enroll his name. Dr Cole's number was 252; and so on.

The waves of tumult that had swelled so loudly the night before had subsided to a trembling calm. There was less noise, fewer words, and those low-spoken and curt; but there was none the less determination. There was that in the atmosphere, highly charged as it was with electrical hate, which warned any so disposed that it was better not to defend the act of Casey, or manifest in any way disapprobation of the proceedings in this vicinity. It was a phenomenon of not frequent occurrence in the evolutions of society, to see a cityful animated as one mind, each wrought up by the same spontaneous idea, each flinging himself unsolicited into the general cause, and then hunting about the streets for some one to lead them. The compressed power of society was all ready for the discharge, but it lacked direction; force cannot exist without control.

Admissions were very rapid. By eleven o'clock of that day, and all day, and for several succeeding days, from morning till night, there and at the rooms to which they moved soon after, a long line of eager applicants stretching far up the street, and round the corner into the cross-street, stood waiting each his turn for examination and enrolment. They were not impatient, and they did not seem to consider fatigue. They were set in their compressed energy, like a delicate fire-arm, to the discharge of this duty.

Between this gathering and those of almost equal magnitude which were in the habit of besieging the post-office upon the arrival of each semi-monthly mail steamer, and waiting for hours in the hope of letters from home, there was a striking contrast. They were the same men, drawn up in similar lines, each awaiting his turn—but for how different a purpose! Love

and tender memories prompted the one: a godly hate the other. Leading as it did to sacrifice, along the vigilance line there ran neither laughter, jokes, nor jollity, such as accompanied the anticipations of pleasure which lit up almost every countenance at the periodic letter-delivery gatherings. Now every streak of humor in their nature was turned to nerve, and every nerve to iron. Stubborn and stolid they stood before the vigilance quarters; and although the lips were commonly compressed, there was that solemn stillness of demeanor which betokens a sense of deep responsibility. Coupled with resolute determination to bear it dutifully, there was that flashing from the eye which betokened the flame within, and which no Yosemite could extinguish. The occasional remarks exchanged by acquaintances were generally uttered in the low tones which men employ when in the vicinity of sorrow or death. Hereafter within the ranks of this organization we shall see none of that fierce excitement, none of those outcries for vengeance that flame out in most associations for the punishment of outrage or the resisting of some infringement of rights. Each man of them climbing those stairs leading to the hall dropped at the entrance his mobbish instincts, and as his keen glance encountered the keen glances of the examining committee self was submerged, and his purpose took on a higher, holier form than that of passionate revenge.

Not more than twelve of the Executive Committee were chosen at this meeting; and with these the president proceeded further to organize. The rooms had already been cleared of stragglers, and now the gentlemen before named were stationed at the door with instructions to admit all good citizens who expressed a wish to join the Committee, scrutinizing closely, meanwhile, the name and character of all applicants. Those who were approved were admitted to an ante-room, where the oath was administered. After this they passed into another small room, where

they signed the roll and took their number; they were then admitted to the hall, where members were engaged in grave discussion.

One of the first questions raised in the hall of the general committee was the action which should be taken in regard to the attitude assumed by the San Francisco *Herald* toward the movement.

In its issue of the 15th of May the *Herald* gives but a very short editorial on the subject absorbing all interest. I reproduce the whole it:

"An intense excitement was caused in this city last evening by the affray between Mr James P. Casey and Mr James King of William. Motives of delicacy needless to explain force us to abstain from commenting on this affair; but we could not justify ourselves in refraining from the most earnest condemnation of the mob spirit last evening. The editor of this paper sustained the Vigilance Committee in times past to the peril of his life and fortune; but at a time when justice is regularly administered, and there exists no necessity for such an organization, he cannot help condemning any organized infraction of the law. We see that a number of highly respectable merchants, some of them our warm friends, have called a meeting of the old Vigilance Committee for nine o'clock this morning. We wish to be understood as most unqualifiedly condemning the movement. Much as we admire the acts of the Vigilance Committee, we have arrived at the conclusion that it can never be revived except under the most extraordinary circumstances, and we declare that the time has not yet come. We refrain from expressing any opinion as to the affray of yesterday. If Mr Casey be guilty, let him be punished. If he be innocent, we will express our conviction to that effect though all the world were against us. But let him have a fair trial."

For a time feeling seemed to run higher against the *Herald* than against Casey. A resolution was offered that every one present should discontinue his patronage of the *Herald*, and use his influence with his friends to do the same. Mr Labatt, then legal reporter, and a member of the Committee, rose and said: "I object to this summary proceeding. Mr Nugent is a gentleman, and does not know what is going on here. I move that we send for him and let him defend himself."

Mr Coleman, learning what was going on, left his post, and entering the hall, likewise endeavored to dissuade them from their purpose.

"I am sorry to disagree with my friends so early," he remarked. "I see no good that can come of it. That the article is no less injudicious on the part of the writer than distasteful to us, there can be no doubt; yet he has the same right which we claim, to his opinion, and to the expression of it in his own way. Such action I hold unbecoming us and our cause; if we are strong enough it is unnecessary; if not, that will not strengthen us." The members thought differently, however, and the resolution passed.

Since the first Vigilance Committee the *Herald* had grown quite partisan in politics and religion. Now its friends were in office, its friends were in Nicaragua, its friends were the roughs, the contractors, the schemers; yet had it suspected the perdition so closely at its heels, it would have sunk its friends deeper than Dante's hell before adopting such a course. A newspaper, though professedly a leader of public opinion, is, it is almost needless to say, the most servile of slaves. It leads by watching narrowly the direction public opinion tends; then circling to the front, it shouts, 'Come on!' No journal of a general character ever yet wittingly suffered martyrdom for a principle. Fanatics may shed ink and fight to the death through the medium of the press; but public, commercial, or business journals are not the stuff martyrs are made of. Furthermore, it was but a slight change in the editor's views that wrought him all the evil which followed. He had heartily espoused the cause of the people in the actions of the first Committee, because, as he said, there was no help for it; now when the necessity no longer exists, as he says, he opposes it—but others thought, and, unfortunately for him, enough so thought to ruin him, that the necessity did still exist.

Among those present were many who had sustained the *Herald* from its beginning. It enjoyed the ex-

clusive patronage of the auctioneers, the most lucrative in business or political circles. The auctioneers, as a class, in wealth, intelligence, and influence stood next to the importers, and were much more numerous and powerful then than subsequently. The method of conducting business at that time was favorable to auctioneers. Large quantities of goods were thrown into the auction-houses, both by shippers from the east and by the importers of San Francisco. Although the patronage of the auctioners was alone sufficient to support a journal, they alone were not sufficiently influential to move public opinion. The importers were the real princes, and although stigmatized by the *Herald* as mercenary and base as compared with the more gentlemanly and chivalrous professions of law, prize-fighting, and politics, they were in fact the most honest and independent class. By no possibility could their motives be construed as selfish or sinister. They coveted neither political power nor the office of hangman, "but," said they, "we are tired of seeing our people shot down in the streets."

In the following notice, which appeared in several of the evening papers the day of its date, and next morning in others, the importers tell the auctioneers in so many words to withdraw their patronage from the *Herald*, and the latter are obliged to obey, whether it pleases them or not:

"SAN FRANCISCO, May 15, 1856.

"*To the Auctioneers of the City of San Francisco:—*

"GENTLEMEN: As the undersigned, importers, commission merchants, and jobbers in this city, will not be subscribers to the San Francisco *Herald* after this date, they respectfully request you to advertise your sales in some other of the city papers.

"Flint, Peabody, and Co.; G. B. Post and Co.; Rankin and Co.; J. H. Coghill and Co.; C. A. Gillingham and Co.; R. E. Brewster and Co.; Goodwin and Co.; Turner, Selden, and Co.; Bragg, Rollinson, and Co.; John Saulnier and Co.; A. L. Edwards and Co.; Shaw and Reed; French, Walroth, and Co.; O. R. Wade; E. S. Gross; J. D. Hunt and Co.; D. L. Ross and Co.; Bond and Hale; Earl and Co.; Castle Brothers; Arrington and Co.; Sweetzer, Hutchings, and Co.; Moses Ellis and Co.; G. S. Gladwin and Co.; R. McKee and Co.; Harold Randall and Co.; Stanford Brothers; William T. Coleman and

Co.; Stevens, Baker, and Co.; George T. Peterson and Co.; Gladwin, Hugg, and Co.; Bosworth, Masten, and Co.; A. M. Gilman and Co.; William Langerman and Co.; and two hundred and fifteen others."

The question then arose what should be done with the auctioneers' advertisements. Mr Thomas J. L. Smiley, member of the association of auctioneers, being present, the matter was referred to him. After consulting with his associates, it was determined to transfer them in a mass to the *Alta*, which was done. The consequence was that the *Herald*, which on Thursday was the largest paper in the town, on Friday was the smallest, being obliged through this action and the withdrawal of other patronage to reduce its size one half.

There were but a few lines of it, requiring less than half an hour to write; there was nothing in it so very bad, nothing a powerful and magnanimous association could not afford to pass unnoticed, and yet that little editorial undid the benefits of years of arduous labor, and changed forever the lives of those most interested in it. It is my opinion that the *Herald*, as edited and published up to this time, was the ablest journal this state has ever seen before or since. Mr Nugent, if I may judge, was, up to the day of his undoing, the deepest, clearest, most logical and eloquent journalistic writer ever upon this coast. I say up to this time; for before this he believed in himself, afterward he did not. He beat the air bravely to make himself and others think this was not the fact, yet all the while he knew his position to be false, his logic lying, and himself a most profound hypocrite. No man writes with vigor in opposition to his judgment.

Hiding his regrets under color of bravado as best he may, in the living half of the severed sheet the editor thus strikes back on the morning of the 16th: "We have some words of explanation to say to our readers this morning in regard to the diminished size of the San Francisco *Herald*. It appears that either the language or views in a paragraph in the topics of

yesterday's *Herald* gave offence to a number of persons in this city, who immediately signified their displeasure by withdrawing their advertisements and subscriptions. This is not all. A number of merchants whose course the paper has offended, by thwarting their speculations and otherwise, called upon the auctioneers and others doing business with the *Herald*, and by menace forced them to withdraw their advertisements. This is not all. A number of valorous commercial gentlemen on Front street gathered together a number of the *Heralds* of yesterday morning, and making a pile of them in the street, burned them amid great rejoicings. This is not all. Two hundred and twelve persons yesterday withdrew their subscriptions from the newspaper. The number of other and further evidences of sovereign displeasure and discontent on the part of the disaffected, we have not space to narrate."

Then this, the wisest and most eloquent of California's journalists, grows childish. And no wonder; for hitherto puffed by prosperity, he now begins to feel his mistake, to feel the firm ground which yesterday he trod so proudly giving way beneath his feet. He sees his fatal error and deplores his ruin—to himself only; the surface is still as conceitedly serene as ever. Yet withal he grows childish and talks of freedom of speech and liberty of the press, as withered spinsters, too rickety to do wrong, talk of the rights of woman. How long will the stupid public be deceived by these meaningless terms! meaningless as applied by disputants and wranglers. The press may coerce, but it may not be coerced; it may bully, and blackguard, and throw mud, but once let the public retaliate, and straightway with hands uplifted in holy horror it cries, "Oh! oh! the freedom of the press! the palladium of our liberties!" Hear him: "We now appeal to the citizens of San Francisco and of the state whether or not they are willing that all freedom of speech should be crushed out in this city.

We have exercised the vocation of newspaper editor in San Francisco for the last six years, and we have never yet been controlled. At this late day we fear it would be useless for us to attempt to submit to dictation. If the sacred position of a public journalist is to be degraded by compulsory subservience to the behests of a cabal, we confess we have not stomach for the office. The Front-street merchants may damage the business of the *Herald*, but we beg to assure them they cannot control the sentiments of its editor." A mediæval king, gushing under a sense of his divinity, could not ring it out more royally.

CHAPTER VI.

COMPLETION OF THE ORGANIZATION.

Un gouvernement parvenu au point où il ne peut plus se reformer lui-même, que perdrait-il à être refondu?
Montesquieu.

THE letter and spirit of the compact, voluntarily entered into by each individual thus associating, was that a few leading men should undertake the direction of the organization, and that they should be implicitly obeyed by all the other members. The cause seemed to demand of its votaries absolute surrender of self; a relinquishment of individual rights, of individual liberty, of freedom of mind and body, a flinging-in of multitudes of little *egos* to make one great *ego*, greater than St George, and for the extermination of a more monstrous dragon.

Obviously this was necessary. A perfect body has brains and limbs, both essential, and neither of which can perform the functions of the other. A headless, brainless mass of people, acting under impulse alone, is a mob; a hand that will not obey the head without stopping to question is practically paralytic, and worse than useless. This fact was instantly grasped by two thousand citizens, and shortly by six thousand, who, to accomplish their purpose, would command or serve, it made little difference to them which.

This body was composed of all classes and conditions of men. Every nationality, every political and religious sentiment, every trade, profession, and occupation was represented, the only qualifications necessary for admittance being honesty and respectability.

There were Catholics and Protestants, Jews and Gentiles; believers and unbelievers; know-nothings, democrats, republicans; merchants, mechanics, clerks, porters, bankers, barkeepers, draymen, stevedores, lawyers, doctors, butchers, bootblacks, hotel-keepers, and ship-captains. There were Americans and Irishmen; Frenchmen, Germans, Italians, and Spaniards; Englishmen, Welshmen, Scotchmen, and all the rest of the white-skinned races, represented in this anomalous assemblage. Black men and Chinamen, not yet politically bleached, were not regarded as men at all, but when the master stood comfortless on duty as a common soldier through the night, we may be sure the servant was not far distant.

The streams of applicants eager for enrolment were filtered through a committee on qualification, by whom such examination into character was made as was practicable amidst the haste and occupation of the time. Charles P. Duane applied for membership and was refused. A certain coroner, of whom it was averred that he coffined stones and charged the city for burial at the rate allowed for deceased paupers, found his way by some means into the Committee, but did not remain there long.

To the duties of organizing, of preparing lists, of getting books ready, of receiving suggestions and reports, of appointing sub-committees for division of work, of enrolling military companies, providing arms and ammunition, and inaugurating a system of drill, through which discipline enthusiasm might be bridled, the first three days were mainly devoted.

During the first twenty-four hours, as the work of registration progressed, it was seen by mid-day that the numbers were swelling the little hall of the know-nothings to overflowing, and that larger quarters would be required immediately, some fifteen hundred being already enrolled. A committee appointed for the purpose, after canvassing the city, selected the hall of the Turn-Verein society, situated

on Bush street, near Stockton, as the place for the next meeting. To this hall, toward night, the Committee adjourned, to meet again that same evening at eight o'clock.

At this first meeting the committee-men had worked very steadily and rapidly. The work thus far accomplished, according to the record, was as follows: The meeting of May 15th was called a "Meeting of the original Committee of Vigilance," and was held at No. 105½ Sacramento street. At this meeting William T. Coleman was elected president, and James M. Taylor, Clancy J. Dempster, and others, vice-presidents. There were also at the same time chosen a treasurer, secretary *pro tem.*, a sergeant-at-arms, an executive committee consisting of twenty-six members, an examining committee numbering nine, and a police force, twenty-six in number, of which Oscar Smith was chief.

The first business was to provide a suitable room for their meetings, and a committee was appointed for that purpose. It was determined on this occasion, that the executive committee should act on all matters for the general committee and report at some future meeting; that the support of the Committee should be withdrawn from the *Herald* newspaper; that the Committee as a body should visit the county jail at such times as the executive committee might direct, and take thence James P. Casey and Charles Cora, give them a fair trial, and administer such punishment as justice should demand; that a bell should be obtained for the use of the Committee; that the executive committee should report to the general committee, after careful investigation, the names of such persons as the interests of society demanded should leave the state; that the organization, so long as occasion required, should be deemed permanent; that the executive committee should have power to strike from the roll any suspicious or objectionable member: that the general committee meet

at their room at 9 o'clock A. M. and 3 o'clock P. M. each day, to hear the reports of the several committees, and for the transaction of other necessary business; that Turn-Verein Hall be used temporarily for meetings. Members of the Committee unable to serve must be formally excused from serving for a given time.

A subscription list was then opened for the purpose of collecting money to defray general expenses, and $346 collected. The Committee then took a recess until 8 o'clock P. M., at which time progress thus far was reported and the meeting adjourned to 9 o'clock next day.

There was much interesting and important detail at this evening meeting, the first at Turn-Verein Hall, which the records do not show, but which the many copious narrations before me amply supply. One thing in particular, the organization of the military, illustrates the marvellous dexterity with which the ancient ponderous and formal methods of transacting public affairs were simplified by practical common-sense and business tact.

An efficient military organization was a necessity. The sky was belligerent; and even if there was to be no fighting, there was plenty of work for fighting men to do. Arriving at the hall in good time, the Executive found door-keepers in attendance, guards posted, and every precaution taken to prevent intrusion or annoyance. Entering, they saw that the large room was well filled.

After a short consultation it was determined at once to organize the whole association into centuries, or military companies of one hundred each, ten companies to constitute a regiment. Mounting a table, Mr Coleman called the meeting to order. After briefly explaining what he was about to do, he called out:

"Numbers 1 to 100 will please assemble in the south-west corner of the room; numbers 101 to 200

will take the first window; numbers 201 to 300 the next window;" and so on until the members present were separated into fifteen sets.

This was accomplished about as rapidly as the president spoke the words. "Each company will now proceed to elect its own officers," was the next order. "Que les Français se mettent au centre!" the president next called; which practically completed the work. The election of officers by the respective companies was to be regarded as temporary only, and subject to the approval of the Executive Committee. The last order, calling all Frenchmen present to the centre of the room, was given for this reason: In the assemblage was a large French element, many of whom could not speak English; and as it would be awkward for such to serve under officers whose orders they could not understand, it was deemed advisable to bring them all together into one company, regardless of numbers. The French make good soldiers. Many of those present had been well drilled as members of volunteer companies, some had been or were officers, and as a rule they understood military tactics better than any other class. The result proved the wisdom of the measure. The French formed their own companies, sent up their nominations for officers, and were among the most efficient and reliable troops of the Committee. If we remember that these fifteen hundred men, swelled in their numbers to two thousand during the evening, when they rose from their beds that morning were most of them strangers to each other, to their officers, to the association, that they had come hither of their own free-will, moved by interest and instinct, and that they were now organized and officered citizen-soldiery, some of them already drilling for efficient service, we may well marvel at the ready skill displayed by the leaders in this movement.

The next necessity after thus improvising an army was to arm it; and this was done in almost as miraculous a manner. It happened that several thousand

good flintlock muskets, which had cost the government fourteen dollars each, and which had been bought for a trifle by George Law, were then lying in the warehouse. The use of these the Committee hired. Filibustering and aboriginal extinguishments were fashionable in those days; but these weapons were not just then wanted. Our pious revolutionary fathers would have said that providence had provided these arms; latter-day scientists, that they were evolved to meet the exigencies of the race at this stage of its development. The vigilants did not stop to discuss how they came there: that they were there and they could get them was sufficient for them to know. Money was George Law's religion and science. He could scarcely have realized a fortune from this venture, for when the Committee disbanded, members were permitted to keep their guns on payment of one dollar and a quarter each, and many of them did so. Seventy-five thousand dollars were contributed to carry out the measures of the association. Out of this the sum of five thousand dollars was paid for the use for seventy days of these muskets, which had arrived a short time before on the *Adelaide*.

Revenue was raised by the voluntary gifts of members and sympathizers. Members were obliged to give their time and pay certain dues; they usually contributed much more than their dues. Three months' neglect of business and four thousand dollars in money was what Aaron M. Burns paid for the privilege of risking property and life for the general benefit. The expenses of the Committee, as may easily be imagined, were very large, several hundred thousand dollars being collected and disbursed in all. As a rule citizens gave cheerfully. "Men who did not belong to the Committee at all," says Mr Dows, "wealthy houses, merchants, bankers, and others, responded liberally to the demands made upon them for contributions. When we came round to make collections they would inquire how much was their share, and

whatever we said they would draw a check for the amount. Of course they saw the benefit of it, and, though they took no active part in the work of the Committee, they gave it their sympathy and support. We had a large establishment, a regular hotel to feed our people, so to speak, a commissary department, and all that, and large expenses for military purposes, defence, and various other things. A great many who did not care to join as members lent their influence; in case of emergency they were ready to give their assistance." By the 8th of October the association was out of debt.

There was no more disagreeable task than that of raising by subscription, after the work was done and enthusiasm had cooled, the money to liquidate the final indebtedness of the association, which amounted to about ninety thousand dollars. Of necessity the best men, the most patient, devoted, self-sacrificing men, must undertake the deliverance of the association from this burden, or it never would be done. Dempster, Dows, and Crary were appointed a finance committee, and set themselves at work to collect the money. Many responded with alacrity, and wrote their names opposite large sums. Others were more backward, and among them Horace Hawes, who was more free with his sympathy than with his money. Hearing that the canvassers were after him, the astute Horace kept out of their way. Always on the alert, the gentlemen of the finance committee suddenly encountered him one day as they were down among the lumber men.

"Ah, Mr Hawes!" began Dows; "glad to see you! Have been to your office several times, but had not the pleasure of meeting you there. Captain Crary holds in his hand a little book in which he earnestly desires to see your autograph."

"Not a dollar will I give to that!" exclaimed Hawes as Crary placed the subscription book before him.

"O yes you will," said Dows.

"Not a damned dollar!" replied Hawes.

"Tut, tut!" exclaimed Dows; "don't swear about it. I knew I was a damned fool, but I did not think I was a damned liar until now. Let me tell you what I said to these gentlemen but a moment ago: 'Out in San Mateo County, where Hawes and I have estates, they say that he is the meanest man in all those parts, but I have always defended him.' Am I then a fool or a liar?"

Horace fumed and swore fearfully. He cursed Dows, Dempster, and the Committee; but he finally wrote his name down for five hundred dollars.

The Frenchmen of San Francisco as a body were in strong sympathy with the movement, and gave it their hearty support, both in time and money.

Behold, then, the citizens of San Francisco organized and armed, and in hostile attitude to the organized and armed authorities, which then consisted of the military, the militia, and the police. This, together with the formation of numerous committees, the planning of the campaign, and the construction of all the principal machinery essential to the successful working of the largest, most powerful, and efficient popular tribunal known in history. And all in one day!

There was also much other work effected. It was determined that notice should be given certain persons of evil repute to leave the city forthwith, or they would be forced hence. The question of wresting Casey from the hands of the authorities and trying him before a jury of the Committee was fully discussed, but no definite action was then decided upon. The meeting adjourned at half-past eleven. Thus, behind the scenes, closed Thursday, the 15th of May, the day following the one on which James King of William was assassinated.

Friday morning at an early hour the Executive assembled at Turn-Verein Hall and the distribution of labor continued. With an army a military commander was required; and to this important position,

after due consideration, Charles Doane was appointed as marshal and general-in-chief, to receive his orders from the president. Doane proved a good and true officer, and gave almost universal satisfaction throughout the entire campaign. He was a man of almost intuitive military perceptions, as we shall see by his achievements. Colonel Johns, an experienced artillery officer, was detailed to organize the artillery under Doane, which he successfully accomplished. Colonels Ellis, Lippitt, and Olney and others either then or soon after were assigned commands. Drilling was kept up vigorously. The preparation of camp equipage, and all the paraphernalia of a military campaign, commanded early attention. In all these arrangements, such was the intelligence and enthusiasm of the members that soldiers were made of men who three days before hardly knew how to hold a gun.

The division of labor completed, the result was two main departments, comprising the working force of the Committee; that is to say the entire association, as it was all working force, all the formulated power of latent law. First and supreme was the executive committee, or extra-judicial court, which thought and determined, and which was divided into numerous sub-committees; and secondly the general committee, or body of performance. As war was then the theme, the Executive resolved itself into a council, and the general committee into an army. Under this military organization the general committee comprised four departments: the department of the grand marshal, the commissary department, the medical department, connected with which was a hospital, and the police department. When the numbers had reached four thousand, or forty companies, of these were two cavalry, three flying artillery, one marine battery, one pistol company, and the rest infantry. The police companies were in addition to these last divisions.

The police force of the Committee was organized with a chief director and regular policemen. When

complete it numbered two or three hundred men, some of whom were under pay. In their permanent quarters on Sacramento street a part of the building was set off from the military department. The police had access to all parts of the building, which privilege members of the military had not. Mr Watkins was made captain of police, and was assisted by Oscar Smith, and others, at first. "The force was not very large," says Mr Watkins, "probably not more than ten or fifteen men, but we could at any time call any number of men to our aid in an emergency."

Many of the regular city police resigned and joined the vigilant police. The city was patrolled night and day by foot and horse, and was never so well watched before or since. All the military companies except the Marion Rifles and the San Francisco Blues, composed chiefly of sporting men, abandoned their organizations and joined the Committee, prefixing the word 'Independent' to their old name, such as Independent City Guard and Independent National Guard, thus keeping together the old association.

Throughout the whole period drilling was kept up vigorously, and at one time the military force numbered fifty-five hundred fighting men. None of the military, officers or men, received any pay. Those of the police who received pay were for the most part poor men, devoting their entire time to the work, and their pay was about the same as that of the regular city police. There was no military costume stipulated; but it was understood that each, as far as possible, was to dress in dark colors, not necessarily black, and was to wear a frock-coat and cap. Some companies wore belts, some carried cartridge-boxes; each company followed its own inclination in this regard; each company had its own drill-room, where its members worked night and day to accustom themselves to the use of arms, and to acquire skill in military movements. They were in deep and solemn earnest, and they learned rapidly. Far different was their *personnel*

from that ordinarily found in military companies. It was no hireling soldiery.

Although the ranks were composed of men bearing brains accustomed to work and to question, no arguments or discussions were allowed in regard to any order. The penalty of disobedience in this or any other respect was prompt expulsion from the association. Every commander took great pride in his company. Some time after the organization was effected Colonel Olney was accustomed to gather the vigilant forces in regiments and battalions, and hold evening drills at the corner of Battery and Market streets, opposite where then stood the Oriental Hotel. There were four regiments of infantry, of which Colonel Lippitt commanded one, and Pinto another; a battalion and two squadrons of artillery, a rifle battalion, and a pistol battalion, all well organized, officered, and drilled. So excellent became their condition that in their final parade they could not be distinguished from regulars.

Dr Cole was surgeon of vigilant company No. 3. Besides serving professionally he was a good counsellor and an efficient member. When the organization was completed it was ascertained that there were some fifty physicians enrolled in the Committee. An attempt was made to organize a medical corps and establish a professional hospital, but the idea was nipped by the usual professional bickerings. Here we see how men are sometimes made mean and selfish by the very cultivation which should ennoble them; how training in some directions narrows and stultifies the mind it should make more charitable. The failure of harmonious association on the part of the medical fraternity, however, did not prevent the establishing of a hospital within the building. A large hall was set aside for that purpose, with all the appliances of a hospital, devoted to the immediate care of injuries.

A majority of the executive committee could find a verdict, but all decisions and sentences involving

death or banishment were ineffectual until sustained by the board of delegates. If this body confirmed the action of the Executive, such confirmation made such action final; if not, the question went back to the Executive. The board of delegates was appointed by the general committee, and was to the executive committee what the lower legislative house is to the higher, but without the power of legislation. It was composed of three from each company, the captain being one, and the other two members chosen by the company. At one time this body comprised one hundred and eight members. It was intended, moreover, that the board of delegates would act as an advisory body in cases where the executive committee did not wish to assume the entire responsibility. Difficult and serious questions might be brought before them, when it would be impracticable to apply to the main body for general counsel.

The leaders, even during the most intense excitement which at times pervaded every breast, were cool enough to reason that their organization, to be effective, must be wielded with that singleness of purpose, promptness of action, and steadiness of eye upon results which characterize the successful handling of absolute power; while to be permanent and continue submissive, the masses must at least appear to exercise some direct influence in the management, and feel in some degree the burden of responsibility. To subserve these and other ends, the whole body, with the exception of the members needed to act as a police force and perform minor duties, were organized, as we have seen, into an army divided into companies, battalions, and regiments.

Thus with profound sagacity we see these organizers inviting the masses to select by popular vote representatives to this board, which would form a medium of communication between the despotic power conferred upon the Executive and the prompt obedience promised by the members of the general

body. Power to initiate measures was not bestowed on them; but the Executive, solemnly impressed with the weight of responsibility which they had assumed, and determined that their errors should be on the side of mercy rather than the reverse, decreed that neither the death penalty nor sentence of banishment should be enforced upon any criminal until after the evidence in the case had been submitted to the board of delegates, and the verdict of the Executive confirmed by the vote of that body.

Next to General Doane in the military came General Olney. The chief of police received his orders direct from the executive committee. A civilians' committee, of which Aaron M. Burns was chairman, was appointed by the executive committee. It was the duty of this committee to take charge of all prisoners and the duties connected with them. None but members of this committee were permitted to enter the cell of a prisoner; not even a member of the executive committee might do so without special action of that body.

The prominent recorded acts of this same Friday were as follows: Jerome Rice was elected sergeant-at-arms, with a salary of one hundred and fifty dollars a month. He was instructed to provide himself with aids, who were to receive no compensation. The constitution of the Committee of 1851 was unanimously adopted, subject to revision by the executive committee at their leisure. Committees on communications, on arms, on police, and on qualification were then appointed.

A communication was received from the office of the *Alta California* newspaper, that Ira Cole and Bill Lewis had notified that journal that unless the author of a certain communication was given them they would attack the office with a strong force. The matter was referred to the police committee, with power to act.

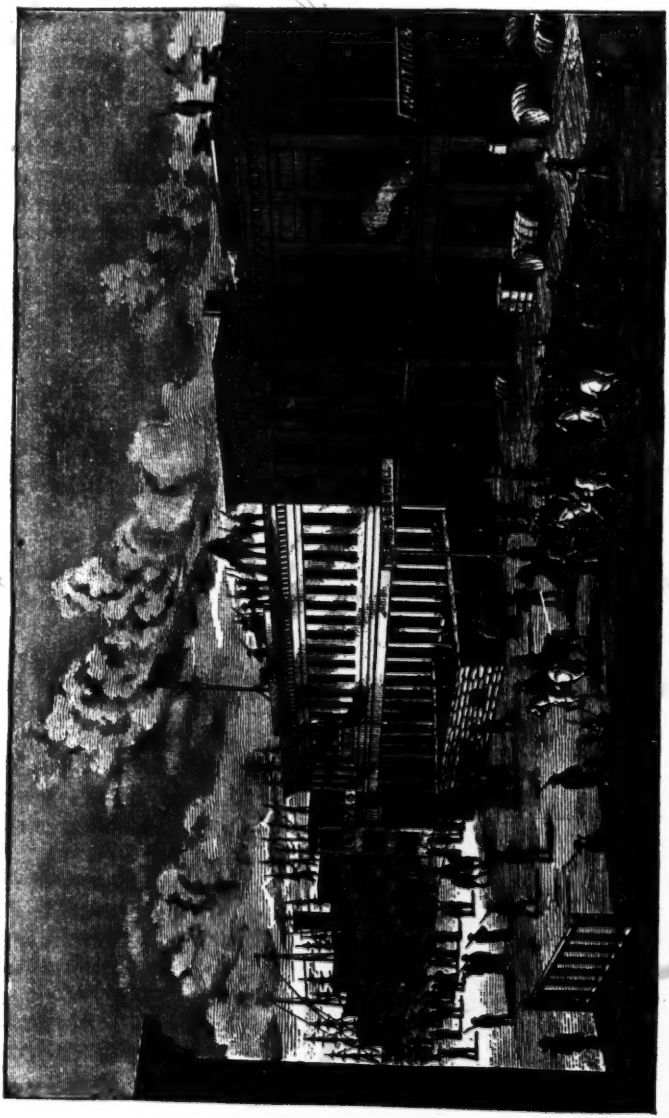
It was further resolved that no city or county offi-

cial should be admitted to membership; that a copy of the constitution should be given the citizens of Oakland, in accordance with their request, that they might form a committee of vigilance to coöperate with the San Francisco Committee. A communication was addressed to David Scannell, sheriff of the county of San Francisco, to the effect that he would be held accountable for the custody of the prisoners then in the county jail. Isaac Bluxome junior was then unanimously elected a member of the Executive Committee, and the record of the meeting was closed by the signature of "No. 33, Secretary."

Early on the morning of Saturday, May 17th, the Committee rooms were besieged by a dense throng, more eager, if possible, to enroll than had been those of the day previous. Five thousand citizens had already joined, and as many more would ere this have been added to the ranks of the Committee could they have been received so fast.

Meanwhile the old appraiser's store, the property of Messrs Truett and Truett, situated on the south side of Sacramento street, between Front and Davis, old number 41, had been secured by the committee on rooms as permanent quarters, and there the association remained until its final disbandment, adjoining rooms being added as occasion required. Thither on this Saturday the Committee moved *en masse;* but this in no wise interfered with the work of organization. The Executive were in occupation of their new quarters at an early hour, and were in session pretty much all the time.

Fort Gunnybags, under which cognomen these rooms became famous, when fully in order presented a unique picture. The principal entrance was from Sacramento street, but there was a private passage from Front street through the store of Atto and Jones. At the entrance was a door-keeper's box, 8, where the password was taken, and stairs on either side led up to the floor above. The first floor was

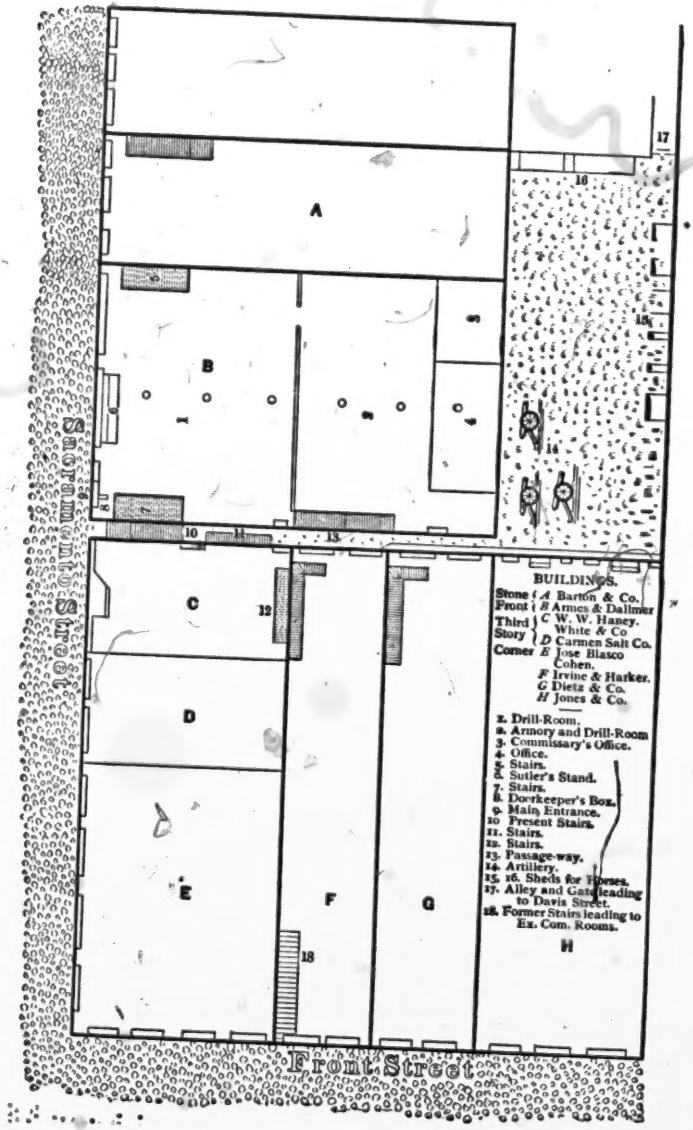


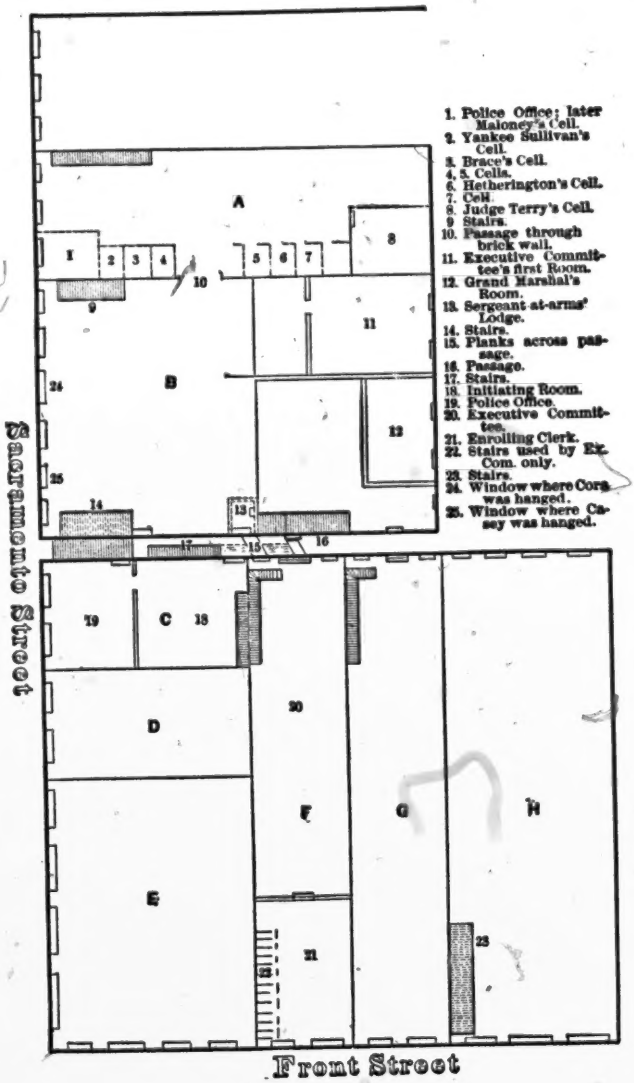
the armory and drill-room—see plan—round the sides of which hung arms, flags, artillery harness, and the bulletin-boards, on which were posted general orders and the notices of the various companies. On the north side was a sutler's stand, 6, where coffee was dispensed to the guard, and on the south side offices were partitioned off for the commissary, 3, and other departments. As if to impress the beholder with the eternity of watchfulness which the vigilance principle demanded, an immense emblematic eye glared from the south-east corner of the room, and attracted the attention of each member as he entered.

Between the stone-front building, A and B, and the three-story brick, C, there was an alley with a stair-way leading to the upper stories of the latter building; and a stair also led from room C, to the second story. The yard was used for horses and artillery, and sheds were erected along its eastern and southern sides. An alley and gate-way, 17, led to Davis street on the south-east corner of the court.

The front part of the second floor, B, was used as a guard-room and armory, and for drilling. Here each company, except such as occupied armories of their own, had a special place assigned its arms, and there they were kept when not in use. Banners and muster-rolls adorned the walls, and here also from one side of the room a large vigilant eye, over the words *Nunquam Dormio*, forever encircled you. Upon a table stood the famous patent ballot-box, with its false bottom and sides partially drawn. Five thousand dollars was offered the Committee for this box; but they had better use for it then. This cunningly contrived specimen of rascality gave them at least a thousand good fighting men

The executive committee rooms were at first located in the south-east corner of this floor, with the military in the room immediately under them. The French Legion ordered arms with such energy, rattling their loose flintlocks, as to cause now and then


A
B
C
D
E
F
G
H
10
12
13
14
16
17
18
Battery Wharf
Front Street
BUILDINGS.
Stone Front
A Barton & Co.
B Armes & Dallmer
Third Story
C W. W. Haney. White & Co
D Carmen Salt Co.
Corner
E Jose Blasco Cohen.
F Irvine & Harker.
G Dietz & Co.
H Jones & Co.
1. Drill-Room.
2. Armory and Drill-Room
3. Commissary's Office.
4. Office.
5. Stairs.
6. Sutler's Stand.
7. Stairs.
8. Doorkeeper's Box.
9. Main Entrance.
10 Present Stairs.
11. Stairs.
12. Stairs.
13. Passage-way.
14. Artillery.
15, 16. Sheds for Horses.
17. Alley and Gate leading to Davis Street.
18. Former Stairs leading to Ex. Com. Rooms.



1. Police Office; later Maloney's Cell.
2. Yankee Sullivan's Cell.
3. Brace's Cell.
4. 5. Cells.
6. Hetherington's Cell.
7. Cell.
8. Judge Terry's Cell.
9. Stairs.
10. Passage through brick wall.
11. Executive Committee's first Room.
12. Grand Marshal's Room.
13. Sergeant at-arms' Lodge.
14. Stairs.
15. Planks across passage.
16. Passage.
17. Stairs.
18. Initiating Room.
19. Police Office.
20. Executive Committee.
21. Enrolling Clerk.
22. Stairs used by Ex. Com. only.
23. Stairs.
24. Window where Cora was hanged.
25. Window where Casey was hanged.

a discharge, which sent stray bullets up into the room above. One night an ascending ball entered Mr Dows' chair, whereupon the Committee concluded to remove to room F, on the Front-street side.

The grand marshal's room, 12, was also on the south side of the floor. A passage, 10, had been broken through the brick wall into A, where the police were quartered and cells had been constructed for prisoners. A large cell, 1, in the north-west corner was first used as the office of the director of police, but subsequently served as a place of confinement for Mr Maloney. In one of the adjoining cells, 2, Yankee Sullivan committed suicide, and in another, 3, Brace was confined until his execution. South of the opening in the wall were a few more small cells, in one of which, 6, Hetherington was kept. A larger apartment, 8, in the south-east corner, with an entrance from the north, was used as Judge Terry's place of confinement.

About the centre of the west wall of this floor a platform, 15, was erected across the passageway to the rooms of the executive committee, 20. Simplicity marked this inner sanctuary. There were several long plain tables, round which the members sat during consultations and trials of prisoners. These and some cases filled with papers were all that could be seen. The president's seat was at the north wall, in front of a rack filled with muskets. Before him the secretaries, prosecuting attorney, and vice-presidents were conveniently seated, while on either side of the room, and converging to a point opposite the president, were placed two long tables, at which sat the members, and between which was placed the prisoner.

On this floor were also the quarters of the grand marshal, the major-general, brigadier-general, quartermaster, and sergeant-at-arms. The stairs from the Sacramento-street end of the passage to the second floor of this three-story brick building, C, led to initiating rooms, 18, in the rear. The front part of this

floor, 21, was partitioned off and occupied by enrolling clerks.

The police office, 19, opened from the armory into another building on the west side. This was another portion of the same building which contained the apartments of the executive committee. Here were hanging festoons of handcuffs, the pistols of captured criminals, relics of assassins, hats made interesting by bullet-holes wreathed in the ropes which hanged their sometime owners; beside which were bowie-knives, slung-shots, and burglars' tools.

In the third story of this building, immediately over the Executive rooms and the police offices, were the armorer's shop and the hospital. In the former were benches and tools for eight or ten workmen, and in the latter shelves and chests of medicine, and from six to twenty cots, varying with the number of patients. On the roof, supported by a strong framework, hung a large bell, whose terrible taps made the street instantly to swarm with scoundrel-hunters. A large steel triangle was first placed on this roof, which, struck with rapidity and force, was heard to distant parts of the city. But when sounds were wanted which could call according to responsive heart-beats, the triangle, like the classic Monumental bell, was laid aside for more ponderous summons. Likewise on the roof of the corner building, E, were two cannon, placed so as to command the streets either way, and one on the stone-front roof. Also at every port-hole in Fort Gunnybags was a field-piece.

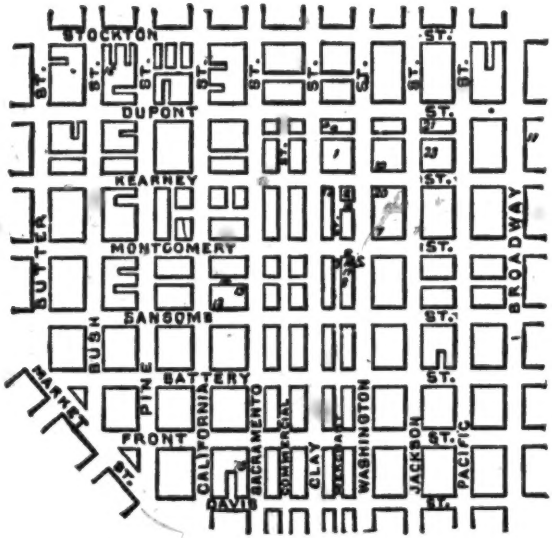
In front of these premises, extending from the walls of the building on either side across the sidewalks, out into the middle of the street, and along the entire stone front were piled to a height of about eight feet gunny bags filled with sand, which were to serve as protection in case of an attack. Gunny bags were then much used by packers and shippers of miners' supplies, as an outer covering and protection to original packages or cotton-sacked goods. Being the most

available article for the purpose, immediately the idea seized some member it was acted on, and thereafter they sat behind their fort of gunny bags. As the texture of these sacks was coarse, it was necessary to bag the sand wet and to water the fort frequently, lest the sand should run away. Indeed the fort required more water than the members, both being constitutionally thirsty, more especially before the executive committee ordered that no intoxicating liquors should be used on the premises.

The building of Fort Gunnybags was in this wise: Shortly after the arrest of a noted offender it was reported that five hundred men of chivalry, Texans and kindred sympathizing spirits of the interior, had banded, and had bound themselves by a hot and sanguinary oath to liberate him or be made mince-meat in the attempt. Word was received from Sacramento one day that they were coming down that night. It was further rumored that the opposition had secured two pieces of artillery, which they proposed to plant on Commercial street, and as soon as the Texans landed to open fire upon the building. One told them this who pretended friendship until he had obtained their secret. The Executive called Colonel Olney and others, and communicating to them the fact, asked what preparations should be made in consequence.

After due consultation it was determined that it was necessary to fortify the front, as there was a large open space before the premises extending nearly to Commercial street. The building was sustained by small granite columns, a few cannon-balls striking which, down would come the whole structure. It was deemed a wise precautionary measure to protect the front by a breastwork, and to use for that purpose as the safest and most available defence bags of sand. This, Olney was directed to have done.

Going immediately to Curtis, Olney laid the plan before him, and asked him to take command of the working party and throw up the defences. Curtis



1. Plaza.
2. City Hall and Police Station.
3. Bulletin Publishing Office.
4. Portsmouth House.
5. Bank Exchange.
6. Montgomery Block.
7. Pacific Express Company.
8. Bulletin Editorial Rooms.
9. Monumental Engine House.
10. Dunbar Alley.
11. County Jail.
12. Tehama House.
13. Old No. 105½ Sacramento Street.
14. Leidesdorff Street.
15. Fort Gunnybags—Vigilance Head-quarters.
16. Turn Verein Hall.
17. Alta Office.
18. Herald Office.
19. Bella Union.
20. Palmer, Cook & Company's Bank.
21. Blues Armory.
22. California Exchange.
23. Pennsylvania Engine-house.

assented. He went about it at once in a most practical manner, proposing to make short work of it. First he bought twelve bales of gunny bags, borrowed ten dozen shovels, engaged all the drays and trucks he could secure, and sent all to the sand-hills in Second street, the teamsters to await instructions there. This was all kept strictly private.

Olney then went into the main hall and called out: "Two hundred men with side-arms wanted for special duty!" Twice two hundred promptly responded to the call, thinking only of Terrys, Howards, jails, armories, and the like, not forgetting the five hundred Texans. In making his selection from them a close observer might have noticed that Curtis picked men of bone and sinew, regardless of skill and bravery.

It was now about eight o'clock; and as in goodly array they marched the streets in the dusky twilight with the gallant Curtis their leader, surely, they thought, this is some high emprise upon which we are bent to-night. Out Front street to Market and from Market to Second they went until they were brought face to face with huge hillocks of blank solid sand. What foe was this, my countrymen! Horsemen were there, but of the base ignoble kind; implements, but dirt-digging, paddyish, not of blood-letting tendency. Carts! bags! shovels! What had all this to do with war! Where were the five hundred Texans! Where were those panting to hash or to be hashed! Gradually upon their dazed, distorted minds the truth in its overwhelming reality dawned. Was it the intention of those awful intelligences that sit behind appearances that they should now fall to and form the connecting link between the shovels, sand, bags, and carts there before them? And as a realizing sense of their situation fell upon them they lifted up their two hundred voices with one accord and cried "Sold! sold! sold!" Nevertheless, to work they went with a will, and soon the building was fortified.

Colonel Lippitt, a West Point graduate, was put

in command of the fortifications, and the guns were brought and mounted. In the rear another similar wall of defence was built, and the roof was overspread with riflemen, and two small cannon were placed upon it. The organized band of the interior was by no means a myth. The Texans came that night, though there were not five hundred of them. They were met by their friends. Gladly, in their elegant and chivalric phraseology, would they have minced and hashed the vigilants and have set free their delectable judicial friend; but when they saw how warm a reception had been prepared for them, they thrust their hands deep in their pockets, walked away, whistled, and took a drink. Brave fellows! and exceeding wise withal.

There was a stable at head-quarters where horses were kept constantly saddled and bridled, as in feudal times, ready for the immediate use of belted knights who slept in their harness. The stable consisted of a large yard in the rear of the buildings, having on one side a long shed, on the other out-houses. Cavalry and artillery horses were there kept, as well as those of the mounted patrol and a dozen or so for general use. Most of the artillery was kept in this yard, but there were a few pieces in the interior of the building. The two six-pounders belonging to the California Guard were kept in the armory brightly burnished. Captains of clipper-ships furnished the Committee with many pieces of artillery. Almost every vessel loaned Fort Vigilance a four-pounder while in port. As many as twenty-five pieces of this kind were sometimes in and around head-quarters. Carriages for them were improvised by taking the forewheels of strong wagons and lashing the guns to them. The cavalry was composed in a great measure of the draymen of the city. At an alarm they would leave their loaded carts standing in the middle of the street, strip the harness from their horses, and mounting would dash off and take their places in the line. Next to these were wealthy gen-

tlemen who kept horses, so that here were cart-men and carriage-men side by side in fighting array.

"I have seen at one time," said Mr Smiley, "not less than five men, members of the Vigilance Committee, with muskets in their hands taking their turn at guard, not one of whom was worth less than half a million dollars." And half a million then was equivalent to five millions now. What distorted ideas we all have of men and money! It was very creditable in half-a-million men to stand on guard day and night, rain or shine, to obey orders and be good citizens; but was it not much more creditable for half-hundred-dollar men to do so? Why should not a rich man have patriotism and exercise self-denial when his interest in the welfare of the state is so much greater, pecuniarily, than that of the poor man, whose services he seems to expect for nothing? There being neither honor nor profit in acting as common soldier in the vigilance ranks, Mr Smiley's remark would have been much stronger had he said, "I have seen at one time five men not having a pecuniary interest in San Francisco to the extent of over fifty cents, on guard, defending the right from pure love of right."

In July the Vigilance Committee consisted of 1 battalion, 4 companies of artillery, 1 squadron, 2 troops of dragoons, 4 regiments, and 32 companies of infantry—in all 6000 men under arms, well equipped, and supplied with all the necessary munitions of war.

When the rooms were thrown open for public exhibition the 21st of August, there were then 1900 muskets, 250 rifles, 300 dragoon sabres, 78 Roman sabres, 55 artillery swords, 4 brass six-pounders, 2 iron nine-pounders mounted on ship-carriages, 5 two and four pounders, and harness for some 30 horses. Besides these there was a French portable barricade, a framework on wheels, which could likewise be transformed into a scaling-ladder or litter, and with a bullet-proof mattress.

During the entire *régime* it was wonderful the

promptitude with which the alarm signal was responded to. As a rule, within fifteen minutes from the time the bell was tapped, on any occasion, seven tenths of the entire vigilant forces would be in their places armed ready for battle. A military guard of three or four hundred was required to be on duty in various parts constantly, besides a police force in readiness at head-quarters. In every direction were pickets and spies. The password was often changed every day, and sometimes twice a day.

A new and significant seal was procured, an impression from which was thereafter attached to all documents emanating from the executive committee. It was about two and a half inches in diameter. In the centre, between the words "Committee of Vigilance, San Francisco," was an open eye, from which rays proceeded, and round the whole was inscribed, "Fiat Justitia, Ruat Cœlum. No creed. No party. No Sectional Issues."

The principal features of Saturday's work, as shown by the record, is as follows: First was chosen a committee of five for deliberation on matters of grave

importance, with power to add to their number. A communication was received from the German members of the association requesting that one of their countrymen should be appointed to represent them in the executive committee. In reply to which it was determined that the Germans should be allowed to submit five names, from which the Committee would select one. Major Johnson was officially notified that the Committee would insist that their guard have the same privilege as the guard of the authorities. Charles Doane was confirmed in his election as chief marshal, and was given power to appoint aids. James Ludlow was made assistant secretary, Isaac Bluxome junior being secretary. It was resolved that eleven should constitute a quorum of the executive committee.

The marshal was ordered to report as soon as possible the number and efficiency of his men. E. H. Parker agreed to loan the Committee some muskets and furnish a quantity of ball-cartridges. Each division was directed to appoint a sub-committee to examine its own members and report to the executive committee any who might be regarded as doubtful. The marshal was requested to report how soon he would be ready with his forces to take the jail.

At this meeting it was directed that the grand marshal should transmit the following written message to the sheriff:

"*To David Scannell, Esq.:—*

"DEAR SIR: The Committee of Vigilance of this county have understood that the prisoners in the county jail were armed. We demand of you that such prisoners as are armed shall be immediately disarmed of their weapons, and in case of collision with our body we warn you and those whom you have called around you to beware of the just vengeance of the people, who will insist on their rights. We insist that our guard search prisoners who are said to be armed.

"By order of the Committee. No. 33, *Secretary.*"

The constitution of 1851 was revised to read as follows, and was then adopted as the constitution of 1856:

"WHEREAS, It has become apparent to the citizens of San Francisco that there is no security for life and property, either under the regulations of so-

ciety as it at present exists or under the laws as now administered, and that by the association together of bad characters our ballot-boxes have been stolen and others substituted or stuffed with votes that were never polled, and thereby our elections nullified, our dearest rights violated, and no other method left by which the will of the people can be manifested: therefore, the citizens whose names are hereunto attached do unite themselves into an association for the maintenance of the peace and good order of society, the prevention and punishment of crime, the preservation of our lives and property, and to insure that our ballot-boxes shall hereafter express the actual and unforged will of the majority of our citizens; and we do bind ourselves each unto the other by a solemn oath to do and perform every just and lawful act for the maintenance of law and order, and to sustain the law when faithfully and properly administered. But we are determined that no thief, burglar, incendiary, assassin, ballot-box stuffer, or other disturber of the peace, shall escape punishment, either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of the police, or a laxity of those who pretend to administer justice; and to secure the objects of this association we do hereby agree:

"First. That the name and style of this association shall be the Committee of Vigilance, for the protection of the ballot-box, the lives, liberty, and property of the citizens and residents of San Francisco. Second. That there shall be rooms for the deliberation of the Committee, at which there shall be some one or more members of the Committee, appointed for that purpose, in constant attendance at all hours of the day and night, to receive the report of any member of the association, or of any person or persons whatsoever, of any act of violence done to the person or property of any citizen of San Francisco; and if, in the judgment of the member or members of the Committee present, it be such an act as justifies or demands the interference of this Committee, either in aiding in the execution of the laws or the prompt and summary punishment of the offender, the Committee shall be at once assembled for the purpose of taking such action as a majority of them, when assembled, shall determine upon. Third. That it shall be the duty of any member or members of the Committee on duty at the Committee rooms, whenever a general assembly of the Committee is deemed necessary, to cause a call to be made in such a manner as shall be found advisable. Fourth. That whereas an executive committee have been chosen by the general committee, it shall be the duty of the said executive committee to deliberate and act upon all important questions, and decide upon the measures necessary to carry out the objects for which this association was formed. Fifth. That whereas this Committee has been formed into subdivisions, the executive committee shall have power to call, when they shall so determine, upon a board of delegates, to consist of three representatives from each division, to confer with them upon matters of vital importance. Sixth. That all matters of detail and government shall be embraced in a code of by-laws. Seventh. That the action of this body shall be entirely and vigorously free from all consideration of, or participation in the merits or demerits, or opinion or acts, of any or all sects, political parties, or sectional divisions in the community; and every class of orderly citizens, of whatever sect, party, or nativity, may become members of this body. No dis-

cussion of political, sectional, or sectarian subjects shall be allowed in the rooms of the association. Eighth. That no person accused before this body shall be punished until after fair and impartial trial and conviction. Ninth. That whenever the general committee have assembled for deliberation the decision of the majority upon any question that may be submitted to them by the executive committee shall be binding upon the whole; *provided*, nevertheless, that when the delegates are deliberating on the punishment to be awarded to any criminals, no vote inflicting the death penalty shall be binding unless passed by two thirds of those present and entitled to vote. Tenth. That all good citizens shall be eligible for admission to this body, under such regulations as may be prescribed by a committee on qualifications; and if any unworthy persons gain admission they shall on due proof be expelled. And believing ourselves to be executors of the will of the majority of our citizens, we do pledge our sacred honor to defend and sustain each other in carrying out the determined action of this Committee at the hazard of our lives and fortunes."

The Vigilance Committee, when fairly organized, stood as follows, though subject to constant change:

William T. Coleman, President.
Thos J. L. Smiley, 1st Vice-President.
J. D. Farwell, 2d Vice-President.
Isaac Bluxome, junior, Secretary.
Charles Ludlow, Assistant Secretary.
James Dows, Treasurer.
William Meyer, Assistant Treasurer.
Charles Doane, Marshal.
Jerome Rice, Sergeant-at-Arms,
James F. Curtis, First Chief of Police.
M. J. Burke, Second Chief of Police.
R. Beverly Cole, Surgeon in Chief.

Executive Committee: William T. Coleman, Thomas J. L. Smiley, J. D. Farwell, Isaac Bluxome, Jr, James Dows, Wm Meyer, Chas Doane, R. M. Jessup, Martin J. Burke, Clancey J. Dempster, Wm H. Tillinghast, Wm Arrington, Eugene Delessert, J. W. Brittan, Miers F. Truett, A. L. Tubbs, C. V. Gillespie, H. S. Brown, E. Gorham, Geo. R. Ward, Calvin Nutting, N. P. Hutchings, Wm T. Reynolds, Wm H. Rogers, E. B. Goddard, Jules David, Hy. M. Hale, A. M. Burns, J. P. Manrow, W. T. Thompson, J. S. Emery, L. Bossange, J. K. Osgood, J. H. Fish, Chas L. Case, F. W. Page, Emile Grisar, O. B. Crary, N. O. Arrington, Samuel T. Thompson, H. J. Labbatt.

CHAPTER VII.

THE EXECUTIVE COMMITTEE OF 1856.

> This forced the stubborn'st, for the cause,
> To cross the cudgels to the laws,
> That what by breaking them't had gain'd
> By their support might be maintain'd.
>
> *Butler, Hudibras.*

THE *personnel* of the Executive Committee of 1856 was quite different from that of the Executive Committee of 1851. In the former was more of character and less of circumstance. Society was older, more thoughtful, more sedate, and responsible in 1856 than in 1851, and the leaders of the popular movements of their respective epochs partook of the qualities of the times. The men of 1851 were in the main earnest and efficient, and they did exceedingly well. All honor to them. It was under their impetuous action that the vigilant idea was more fully awakened. Like drowning men struggling to save themselves, they hardly knew what they did; but as is often the case in sudden and impromptu efforts, they adopted a course of action the best possible under the circumstances. Examining their conduct critically, few are the improvements we could suggest, that is if we fully place ourselves in their position. Even at this day, with all our experience, we could teach them little. They were obliged to act quickly. They had neither the time nor the inclination to formulate their conceptions, consider chances, ponder plans, and work to a given rule. Deliberation was not the spirit of the day.

And yet the leaders of 1851 were fluttering adventurers compared with the broader-minded and more deliberative inquisitors of 1856. So quickly were turned the somersets of society in those days that neither thought, purpose, nor population were in the one crisis as in the other. California was no longer beyond the limits of civilization, nor was San Francisco only an embarcadero for miners and traders. To him whose eye was single, nature smiled upon these shores. To him whose heart was pure, God was there. Thousands who had fled the country and its profane doings as from a pestilence had returned with their families, satisfied that for them there was no other spot on earth on which contentedly they might live. To them the whole atmosphere of ambition and intention had changed. Men saw with different eyes; and it was little wonder that objects both hideous and beautiful were now discernible to which hitherto their eyes had been blind.

We cannot do better for a moment than to place side by side the presidents of the two committees, taking the first president of the first Committee and the only president of the second Committee and scrutinizing somewhat their salient characteristics. Nothing can illustrate more clearly the distinguishing features of the two movements, the two presidents being strikingly representative each of his associates and the general temper of the times.

Sam Brannan, men called the first, and sometimes plain Sam. There is no little significance in the name one goes by among one's associates. It implies dignity or the lack of it; morality or the lack of it; piety, temperance, hearty fellowship, wit, learning, modesty, refinement, or the absence of these qualities. In this instance to have employed the term Mister, or Samuel, or Reverend, or Esquire, would have seemed as *mal-apropos* in a friend or companion as to have applied the same expressions of courtesy or respect to a circus

clown or to a watch-dog. Though for a time one of the most prominent men in California, one of the wealthiest—I do not say one of the most highly esteemed—the sobriquet Sam was used instinctively as the synonyme of the individual. It was only once, within my recollection, when he assumed the *rôle* of banker, that these titles of respectability were affected, and then the sensitive public seemed shy of him, and the project was abandoned. Sam Brannan, banker, would have been a tangible reality, however hirsute or churlish he may have been, but Samuel Brannan, Esquire, banker, was a social myth, a far-away incorporeal thing.

When Sam was a saint appellations of reverence were not out of place; but saturated with the avarice and strong drink incident to California, since his arrival here Sam has been no saint. It is true he followed preaching, as a Mormon leader, priest, or prophet, for a short time after landing at San Francisco; but when the enlightened brethren declined the further payment of tithes he cursed them, told them to go to hell, while he went—his way. Monogamous or polygamous doctrines never troubled him much, judging from his flaming devotion to the tender passion; in fact, in the not wholly pleasurable scrutiny of his life and character my labors have forced upon me, judging from the record since 1848 and from practices notorious for more than a quarter of a century, I have often wondered what Sam really did preach when he was a Mormon elder.

But as Casey said of his Sing Sing experiences, Sam's early piety should not now be raked up against him. He was a leader in Israel as long as it paid; and all wise leaders lay down their arms when the remuneration fails, for in religion as in war money is half the battle.

Yet with all these repulsive qualities flung in with

have before remarked, needed just such an instrument. Analyze still closer the qualities here present, and see how well they fit the exigency. Principle we regard as a nobler and more desirable quality than unbridled passion; yet principle alone would not have struck the sudden blow that stunned the monster of 1851. An evenly balanced mind wherein justice calmly sits, and soothing piety and all the sweet amenities of life find welcome, we look upon as more lovely than the ruling power of man roused to vindictive hate and bloody revenge; and yet neither justice, piety, nor civility alone would have delivered the city in 1851. The disease was passionate, hateful, bloody; so were the times, and bloody, hateful, passionate must be the cure. To odious, soul-bespattered, spiteful Sam, the commonwealth of California owes much.

Now turn to the president of the 1856 Committee. From a lumber business in St Louis, William T. Coleman came to California in the summer of 1849 gold-hunting; but traffic captured him, first at the tented city of Sacramento, carrying him thence to Placerville, and finally to San Francisco and New York. His early life was the school of business experience: a hand-to-hand conflict with fortune, where lusty strength was guided by wits newly whetted each morning for the day's encounter. During this part of his career I find no trace of questionable transactions, of business aberrations, and those double dealings, not to say fraudulent failures and downright swindles, which stain the early record of so many who have since achieved pecuniary success.

On the contrary, Mr Coleman's life has been one of honorable example from the beginning. Brought into prominence by superior skill and application, both at home and abroad, his good name has ever been a shining mark for calumny, yet always one from which the fiery darts of evil-minded men fell harmless. No man has done more to elevate the standard of commercial morals in California or to strengthen the

commercial credit of San Francisco. During the eastern financial panic of 1857, when confidence was shaken and California's reputation particularly low, almost single-handed Mr Coleman wrought in New York an entire revulsion in feeling concerning Pacific-coast credits. If there be one whom it were safe to hold up as a model Californian, this is the man. Throwing himself into the vortex of adventure with all the ardor of high ambition, and with a mind of that highly tempered metal susceptible of the keenest edge, carefully avoiding meanwhile the shoals upon which so many noble characters were wrecked, who of eight thousand was a fitter chief than he? In honesty, practical sense, and presence of mind he was not surpassed by Themistocles.

Destined like Cæsar to success divine, in him was combined in a remarkable degree moral and physical courage. Without the slightest approach toward rowdyism, without pugilistic proneness in heart or in manner, preferring to the last moment the logic of mind to the logic of muscle, keeping his fine physique under the coolest control of intellect, he could nevertheless, upon the failure of argument, employ the ultimate appeal with consummate force. In the Bardue-Stuart affair, as we have seen, his preparation for the combat which he saw brewing on that Sunday morning was to go home and change his Sunday clothes for his every-day apparel; yet in the hot exercises of that day none were cooler, none mingled more earnestly in the exciting duties, and none did more to quiet the troubled sea.

If there be one quality more detestable than another to the average Californian mind, it is the quality of meanness. A man may be lax in his payments, having a dull sense of honor, of integrity; he may be immoral, dishonest in a dashing way, or even a fire-eater with human blood upon his hands; if he be not niggardly, abject, or socially sordid, all else may be forgiven him. On the other hand, no matter how in-

telligent, or learned, or pious, or wealthy, or temperate; no matter how exact in the fulfilment of all monetary and other obligations, if he be what is currently called mean, reptile-blooded, selfish, soulless, let him be anathema. California is not his country; unless, indeed, as some seem to do, he covets contemptible distinction, and revels in an atmosphere of odium. I do not say that this is as it should be: I say that it is as it is.

Mr Coleman was a man of intellect, of sound practical understanding, of genius if you like, and if his path had led through the more abstract realms of mind he would have made his mark in any one of the various fields of intellectual ambition, of science, statesmanship, or jurisprudence. To a thorough education early acquired he added general information; he was eminently intelligent and skilled in all the ways of commerce.

When work was to be done he was one with the workers; saying not "Go thou," but "Let us go." In non-essentials he was in all respects yielding, but on vital points of policy or principle he was as Gibraltar. He liked to have his own way, as we all do, but his way was usually the best way. When he could not have it, however; when his associates ruled against him, as was frequently the case, he yielded with as good a grace as any man I ever knew. Though conciliatory toward inferiors, and toward those who follow well, should any attempt coercion he could be as haughty as a prince of Persia.

To elevate in these pages any man as the object of idolatry is foreign both to my taste and to my purpose. Friend or foe, I would weigh every individual character claiming attention in the even balance of truth. Doubtless Mr Coleman has his weaknesses, his unpleasing side, as every one has; but I must confess my inability to find those glaring faults which critics delight in. If he has enemies they are few and reticent; or else, belonging to that hybrid class of

politico-pugilists whom he hates, and from whom I do not draw my estimates of character, I hear little of them.

The executive committee comprised the best talent in the city, and that Mr Coleman was the best man in the Committee for the position of president there can be no doubt. And the best talent of San Francisco I hold to be as good as the best of any city on earth. In its *ensemble* it presents a widely different appearance from an association of the best talent of Boston or of London. To the prim and prudish such an assemblage might seem crude and incongruous, might seem profane or intemperate, might seem lacking in a due regard to dress, manners, and forms of speech; but they would tell them that brain power does not depend upon the style of hat, nor the force of language upon its elegance, and that as honest hearts beat under plain buttons as under diamond studs. Not that these men, all of them, lacked cultivation of mind or elegance of manners; but simply, they set no great store upon these things. The question was not How much is he worth, who was his grandfather, what does he know? but What can he do?

In one word, at once comprehensive and individual, these were Californians. There were never men like them before, and never will be again. They were a race *sui generis;* they came, and are gone. Many of them are living to-day, but they are not the men of '56; give to them a new birth, unless creation be born anew with them, they are not their former selves.

Now Mr Coleman, though as thoroughly saturated a Californian as ever lived, was a gentleman in the highest sense of the term. He was possessed of honesty and integrity, which some who call themselves gentlemen lack. He had a bright, clear intellect, trained and burnished, and a well stored mind, always ready for use—qualities which many so-called gentlemen deem superfluous. To qualities of mind which

did him honor were added kindness of heart and genial courtesy.

In physique he presented a figure which would be remarked even in a senate chamber, or in any gathering of cultivated men anywhere. Tall, large, symmetrical in form, with a high intellectual forehead, and eyes of illimitable depth and clearness, his presence was always imposing, and would indeed be felt as awe-inspiring were it not for the visible good-humor that radiates from every feature. He is a man; place him anywhere you will, and he fills the position. Yet with all his commanding presence he drops to the level of his associates, whoever or whatever they may be, with instinctive grace and dexterity. In him unite more than in any other man I ever met the dignity of sincerity with genial affability. He was essentially the most natural of men; there was nothing artificial about him.

So was Mr Brannan natural, caring neither for God nor man; but the two were quite different. In regard to the sterling qualities of heart and mind, the character of Mr Brannan was cast-iron. Burnish it as you would, it was always iron, rough and unyielding, whereas Mr Coleman's character I should liken to a golden nugget, unstamped by conventionalities, but bright and polished as from some freshly split sierra.

Next to Mr Coleman stood Clancey J. Dempster, in some respects the most remarkable man of the movement. A New Yorker, son of a distinguished clergyman, a portion of his early life was spent at Buenos Ayres, where his father had charge of the Protestant missionary station; thence to a business house in Baltimore, and in 1849 to California, to meet and be made a partner by D. L. Ross, because of his business ability.

From his father he seems to have inherited an evenly balanced, logical mind, untiring and persistent energy, and no small degree of literary talent, with a

love of the simple habits of a plain domestic home; from his mother, a noble Christian woman of good Scotch Presbyterian stock, a sweet amiability of temper and unselfish devotion to principle. Small of stature, of light complexion, with a mild blue eye and gentle mien, he is the last person even a close observer would select for an inquisitor or pronounce the most unswerving of a band of stranglers. In 1856 he was twenty-eight, but little more than boy in years, yet a Nestor in wisdom, with marked genius in certain directions. Light a candle and search the city diligently, and you will find no other such man.

He was the moral ideal of vigilance as compared with Coleman, who was the physical; he was the delicate spring that held and regulated, while the latter was the swift and powerful engine that drove the machinery. Call it a reformation, and he was the Melancthon of Coleman's Luther; a revolution, and he was the Franklin of Coleman's Hancock. Both will expend themselves in devotion to a great principle for the public good; and while the actuating motive of the one is noble, the other is absolutely pure.

Close, methodical, painstaking, and industrious in business, thorough and conscientious in all things, Mr Dempster must necessarily measure others by the same standard, and exact from public men the same faithful discharge of duty that is expected from the honest private citizen. In fact, as regards culpability, he sees no difference in the laxity, inefficiency, or dishonesty of a public officer and those of the citizen.

Under provocation he was restrained, always preferring persuasion to force, considerate of others, though firm, persistent, and fearless in maintaining the right. Genial, charitable, companionable, he is ever on the watch to serve and make others happy. Without any of the small or large vices incident to tempestuous experiences, incident particularly to Californians, he enjoys a quiet home and the pleasures of domestic life. He is one who grows upon both a

friend and an enemy: the former finds in him every day more to love, the latter more to fear. The widow, the fatherless, the poor, the distressed, ever find in him true and unostentatious sympathy and aid. Says one of my dictations: "The man who possessed more knowledge of law, of character, and had a better appreciation of the situations of things than any other man, was Mr Dempster." Another calls him a "cool, calculating, brave man; not a bit nervous; you can't frighten him."

By instinct and education he was conservative. Tradition had done more for him, perhaps, than for any of his associates. Though of Scotch puritan stock, he retained his principles, thanks to California, in a great measure free from puritan prejudices. Regard him to-day, and notwithstanding the sulphurous flames of 1856, with freedom of thought on all subjects, with an intellect wholly emancipated from puritan prejudices, he is as strict in his obedience to the laws of God and man, as careful of the rights of his neighbor, as sensitive to the call of duty, whether in the family or in the state, as the purest puritan of them all.

Difficulties seemed only to nerve him to greater effort, and danger to inspire him with greater courage. He was of all others a man for emergencies; for it was then alone he gave full rein to his resources. The strength as well as the beauty of his character lay in the marvellous blending of modest demeanor with unflinching courage, of mildness of speech with force of will, and of that steadfast earnestness which neither discouragement could daunt nor success intoxicate. His deep quiet enthusiasm bordered on the sublime. So unselfish was it that, although able to fill the highest position, he was content with any; although keenly alive to the faults and failures of his associates, there was nothing captious, fault-finding, or unkind in his criticisms. To shirk responsibility; to withhold time, thought, or money when the cause

demanded it, were as unknown to him as obtrusiveness, vanity, or affectation.

In his intercourse with his associates no less than in his conflicts with his antagonists, he was the personification of discretion. His silence was often more powerful than the most ponderous or persuasive words of another. Positive in opinions, unflinching in the performance of what he deemed his duty, and as unyielding to threats as cast-iron to the blows of a lady's fan, there was latent within him a power beyond that of the most noisy demonstration of unloosed and riotous forces. Let the storm rage, whether in the Executive chamber or before the armory of the Blues, the subtile electricity of his nature is sure in the end to equalize the wild antagonisms of less happily balanced minds.

Sometimes we see the rarest wit shine through a melancholy face, sometimes the serenest mind tossed in an unquiet body; but far less often do we find incrusted with so placid an exterior an energy at once volcanic and silent, joined to a keen, analytic, and far-sighted intellect. Given the course his mildness and strength of mind dictated, and the end was clear from the beginning.

He was by far the deepest thinker of them all. Though elegant to preciseness in his literary composition, he was as ready to display his own weaknesses as the kindly Horace or the latter's great imitator, Thackeray. Dempster was chairman of the committee on constitution and by-laws; and the able address of the executive to the general committee on the final disbandment was written chiefly by him, Mr Smiley lending valuable assistance.

If you have something to be done, give it to the busy man; do not give it to the man of leisure. By degrees the cause rested more and more heavily on Dempster's shoulders, just as every responsibility incident to human affairs will shift itself from one to another until it finds the fittest support; so that the

natural shrinking from prominence in affairs which characterized his first appearance gradually wore away, and day by day his influence seemed to broaden. No man had clearer or more direct conceptions of the rights and duties of citizens of a commonwealth to themselves and to each other; and it was when aroused by a sense of wrong committed that he was strongest, most positive, and most efficient. Then the absence of physical vigor was lost sight of, and his companions saw, and society felt, only the mightiness of his mind. Day by day, as fresh duties were laid upon him, he grew; his labors, except in physical application, fertilizing his abilities.

Side by side with Coleman and Dempster stood Truett, and Farwell, and Crary, and Dows, and Smiley, and others, superior in some qualities, inferior in others. Truett and Truett were among the leading merchants of the city in wealth, position, and trade. They were not exactly brothers Cheeryble; Miers F. Truett was vigilance and H. B. Truett rather inclined toward law and order. The former was somewhat southern in his proclivities, the latter northern; the former did not recognize the *duello*, the latter did. Mr Truett, by which designation Mr Miers F. Truett is always meant, was at one time the best business man on Front street. He was afraid of nothing; a man of iron, morally and physically. Two heavy muscular teamsters were one day fighting on the street, when Truett came along and seizing each by the collar held them off at arm's-length, as the school-master separates pugilistic pupils.

In the trial of Terry, the chief justice, before the Committee, which will be presented in due time, Truett was appointed to defend him; and so interested in the prisoner's fate did he become, so unremitting in his labors as advocate, that some believed, and openly alleged, that he had forgotten his duty as Committeeman, and was, indeed, lost to the cause. Says one of

my dictations: "I think he is a man not to be depended upon. There were two or three men who, I am satisfied, used to tell the secrets of the Committee. Things would get out in a few hours. I think Truett was one of them; another I think was Dr Rogers. He was a great friend of Boutwell, the commander of the *Adams*," and so on to still more serious charges. But I am of the opinion that such belief, expressed by a member of the Executive above the suspicion of defaming jealousy, else I would not give it, arises from a simple misapprehension of character. Mr Truett's enthusiasm partook of the chivalrous, and the depth of feeling evinced when the defence of a human life was placed in his hands speaks louder than words the praise of his honesty and humanity.

Captain James D. Farwell arrived in California from Maine by way of Panamá in the spring of 1850, having shipped round Cape Horn the autumn previous the river steamboat *Tehama*. He was a member of the first Vigilance Committee, the safe-stealing by Jenkins occurring very near his store. One of his first exploits in the second Committee was the taking of two field-pieces from the California Guard, to which duty he was detailed.

He was a man of homely integrity, of single directness of thought, stubborn in his sense of duty, and conscientious as before a power greater than that which threatens. One cannot be in the presence of this man long before one is satisfied that it would be as impossible for him to think or act in any cause for effect, for praise, for any sinister end, as for the earth to leave its orbit.

He is made honest; he cannot help it. Of all men he is one of the most conservative, in business, in morals, in fashion. His brain of toughest texture, of practical convolutions, unpolished by hypocrisy and deceit, is the last place where one would look for loose or licentious ideas of good citizenship. Hard in its common-sense, more adamantine still in its conscientious

sense of duty, it is the last place one would look for selfish ambition or lurking designs on the welfare of the city. Listen to him on the subject of his motive in joining the Committee:

"I went into that Committee with as earnest a sense of duty as ever I embarked in anything in my life," he writes in his narrative. "I went into it as a religious duty to society, although I knew I was going antagonistic to the law of my city and state, which every good American looks upon with a great deal of dread, certainly. After embarking in it, as I did, with my whole soul and determination to purge the city of these abominations, I and my companions of the executive committee also, to a man, were governed by the purest motives. We sunk individual self entirely; and our only object was to save the lives and property of the community."

Farwell was particularly efficient in marine matters. His courage was accompanied by that chivalric bearing which works even on an enemy, and that stubborn energy which pauses at nothing short of success. He was the commodore of the organization, as to him were intrusted the little naval expeditions incident to the campaign. He it was who chiefly managed the preparations to take care of Mr Boutwell of the United States ship *John Adams*, in case of need, of which full particulars will be given in due time.

James Dows was one whose intellect and capabilities developed with the rapid evolution of the time. He was the John Randolph of the movement; though in rough-and-readiness he might be likened to Zachary Taylor, in strange and blasphemous diction to Andrew Jackson, while his rich humor, his tall, gaunt form, unswerving truth, and homely, straightforward honesty were not unlike those of Abraham Lincoln. Though his sound sense bristled with eccentricities and his far-sighted judgment was striped with oddities, whenever he chose to speak, which was often and loud, he did not lack for hearers. His voice was

always on the side of right; and his sarcasm was a scourge to evil-doers.

Oliver B. Crary was a man of plain persistent honesty and single-hearted directness in speech and behavior. Declining the position of captain of his company, known in the annals of the epoch as the 'Bloody Seventh,' he accepted the post of first lieutenant, and so served to the end of the ever memorable week at which our narrative is now resting. Soon after the organization of the military the Seventh and Seventeenth companies were merged into one, with George Hossefross as captain. This man was somewhat rough in reputation if not in reality; he had been fireman and militiaman, and as such his experience was of some value, so that notwithstanding these were not the professions which most delighted the qualification committee, especially when the applicant's breath was odorous with politics, he was admitted and given, greatly to his delight, command of the Bloody Seventh.

On one particular night, when deep designs were afloat, officers alone were permitted to stand guard at the Committee rooms. Hossefross was officer of the guard. The Bloody Seventh, the French Legion, and the Citizens' Guard under Captain Ellis, comprised the guard.

Hossefross stationed his lieutenant, Crary, at the door of the Executive Committee, with instructions to let no man pass either way without special orders. That was Crary's post until twelve o'clock. He had not been long on duty when Farwell, who was in the room, attempted to pass out. Up went Crary's gun, which was a Sharp rifle, and the august inquisitor was brought to a stand.

"Take care, Crary!" exclaimed Farwell, motioning aside the murderous weapon. "You know me well enough; I am in haste and must go out."

"I know no man here!" was Crary's reply.

Farwell was obliged to retire. When he returned,

which was shortly afterward, he had the pleasure of informing Crary that he was relieved from duty, and furthermore that he was a member, that moment elected, of the Executive Committee.

Dr R. Beverly Cole, surgeon-general of the Committee, displayed not only public spirit and enthusiasm in the cause of right, but seemed ready to lay aside even those narrowing professional prejudices which, under the name of professional etiquette, seem so ready to sacrifice the comfort, and even the life, of the patient to the jealousy of form or the caprice of feeling. Dr Cole was among the most active in his efforts to consolidate the medical talent in the Committee; but this failing, he ever held himself ready to respond to any call which might be made upon him. It was he who was first at King's bedside, who attended stricken Vigilants, and who watched the life-vanishings of the executed. During the four months of active operation he kept in his stable a horse saddled day and night, that he might the more promptly respond to the vigilance signal.

Tall, strong, straight as a pine, with a piercing black eye and a pronounced manner, Thomas J. L. Smiley was as active as he was bold and successful. During the last month of the organization, particularly after having been elected vice-president, he proved a fine executive officer, and was of great service to the association up to its close. Mr Smiley was one of the few who began at the beginning and continued to the end; who promptly responded to the first tap of the bell on the night of the 10th of June 1851, and continued to grow in efficiency and influence up to the final demonstration, the 18th of August 1856. He was on the war committee part of the time, and in the grandest achievement of the crusade; he was second to none in activity and bravery. Scouring the town at the head of a chosen company, hunting the enemy in their retreat, seizing and bringing them to head-quarters when found, he felt like one in battle,

he said—all thought of danger being lost in the courage of animal excitement. In his dealings with prisoners he was always on the side of kindness when kindness did not interfere with duty. "Tom Smiley," says a member of the Executive in his dictation, "was very influential, very active and useful, though not of very good judgment."

And again, "Smiley I don't think had a well balanced mind; talked a great deal, was very excitable, but ready and prompt to carry out any measure the Committee thought necessary." The opinions of strong-minded, independent, brusque associates, however, when expressed of each other, should always be taken with allowance.

Mr Gillespie did a large amount of valuable work in his position as chairman of the committee on evidence, and it was of that kind which made but little display. Of striking physique, with fine intellectual features, and an affable and polite demeanor, many of his hard-thinking and rough-working associates regarded him in the light of a pleasant, inoffensive gentleman, of no pronounced opinion or ability. But his labor consisted of quiet researches and secret investigations rather than brilliant displays of skill or learning, and as it was usually performed alone, his nearest neighbor knew not the extent of it.

Richard M. Jessup labored side by side with Mr Coleman in more perfect harmony, perhaps, than any other member. And while in unison with him in purpose and in action, he was ready to waive the honors; so that, being a man of marked respectability in the community, he was enabled to render the cause much assistance. Toward the latter part of the *régime* he became infected with politics and retired from the Committee.

The duties and responsibilities of Secretary Bluxome were very different in the second Committee from those of the first. Counsellor as well as scribe, custodian of the archives as well as of all the unwritten

secrets of the association, he served this his second long term with a steady patience which places him second to none in point of patriotism of the pure and unselfish quality.

J. W. Brittan was a good man; not so profound as Dempster, nor so practical as Coleman, nor yet so impulsive as Truett, but cool, firm, and unimpassioned almost as stone. Like Jessup, he was a devout follower of the president, evincing, as Coleman says, "a readiness to take any direction that I might indicate, relying upon my judgment and previous consideration without explanation."

The French element was represented by Émile Grisar, a bold, true man, clear-headed, and an able thinker and speaker and ready worker.

E. B. Goddard, the only gray-haired man in the Executive, was eminently conscientious and prudent. Doctor Burke was a patient and enthusiastic worker. A. L. Tubbs, F. W. Page, and W. H. Tillinghast were among the best men in the Committee. All these and many others did their quota of work, took their share of the responsibility, and commended themselves to the approval of their associates and to that of the community.

Then there were fiery little George Ward, holding over from the first Committee, and Thompson, and Tillinghast, and many others—I cannot analyze their characters, all of them, pleasing as is the task. "These men," writes Mr Dempster, "and others, who long ago laid down to rest, and perhaps are almost forgotten by the community for which they perilled more than life, were unconscious heroes, instinct with such love of justice and the right, that sacrifices and perils encountered in the cause conferred only pleasure, and perhaps scarcely increased their own self-respect. I have never seen in any other organization with which I have been connected such general devotion to duty, such unselfish indifference to the honors or the praises which might be obtained, or so little

of that jealous segregation into cliques and indulgence in little animosities."

In all the Committee there was no man better fitted to his place than Marshal Doane, the central figure of the military. And I doubt if in the annals of human warfare an example can be found of a civilian unexpectedly called to general three thousand unexpectedly called civilians with such a showing as that of the Sunday next after the assassination. It was this quickness of perception and adaptability of resources to necessity, the instantaneous and intuitive knowledge of cure, absorbed as it were from the disease itself, that claims our highest admiration throughout this entire movement; and in these respects none may claim higher distinction than Marshal Doane. Whether it was that his success operated in his eyes as a magnifying mirror, leading to the discovery in himself of yet another new and wonderful talent which this flush of popularity alone could bring to its unfolding, or whether mercenary ambition marked him for its own, I know not; but much as I admire the man, much as San Francisco and this history are indebted to him for beneficial and brilliant services, truth compels me to uncover his character, and disclose the only blot I find upon it, a blot of such discoloration that had all the members of this fraternity been so tinctured, or any considerable portion of them, perdition would have been the consequence.

Unfortunately, toward the latter part of the campaign this marvellous organizer and truly worthy and efficient man lost that singleness of purpose which was the charm and sanctification of the movement, became selfish, and sought to prostitute his good work and position in the Committee for personal advantage. In a word, he sold himself, his popularity, his good name for office. He was elected sheriff of the city and county of San Francisco, though not until after the disbandment of the Committee, and he made an

excellent officer. This in itself was not so heinous an offence, had he not thought of it while in the Committee, and there prostituted himself, his strength and influence, to politics.

I do not say that there were no others of the Executive who were not above using the hearts of the people and the holiness of their cause as the stepping-stone to place, provided the office was high enough. I do not say that there were not those who would not have declined the presidency of the United States had it been offered them; but I do say that as a body there never before were fifty men having in their hands the political power wielded by these fifty who laid it down so gracefully, thus vindicating their high and holy integrity throughout all time. Had the tendency of the Executive been sinister, such as are almost all bodies in any wise related to our political system, especially those loud in their professions of disinterested patriotism and public good, in the place of a moral revolution this would have been a moral rebellion; instead of a reform it would have been a riot; instead of vigilance, the highest and holiest principle of associated humanity, it would have been mobocracy the lowest and most profane. Further than this, he who served in this Committee and accepted office in consequence of it, gave the lie to every protestation, and displayed the presence of only the shadow of a man.

Mr Coleman takes the right view of it when he says: "While we openly held and declared that it was unbecoming in any prominent member of the Committee to entertain any such ulterior views, and unworthy of them, and unjust to the whole Committee to ever afterward accept office, or directly or indirectly accept office or gain of any kind arising out of or from any of the labors or the results of the labors of that Committee, yet it was of course impossible to bind or even control what should come after the dissolution or disbandment of our organization, and we

could only look to it as best we might that while we were together no power or position should be prostituted to such end, so far as lay within us to discover and prevent it. I never blamed Doane for accepting office afterward, or rather never censured him with any severity—had no ill-feeling about the matter. It might be considered rather a fine-drawn assumption on my part, a superlatively chivalric view of the matter, without a right to expect so much; but still I sincerely regretted the fact of his or any other prominent member accepting any office of profit, because we really undertook the work without a selfish end or aim in view, and the large body strictly, rigidly, and tenaciously held to that view, and to that rule of action, and it was one of the sources of our chiefest pride that we could truly say that all we did was for the good of society, and of morality, and that we gave our time, efforts, and money, and risked all that we had in the world without ever having any share in the results, directly or indirectly, not held by those who were least connected with and farthest removed from any participation in our operations."

Under Doane was a score as good officers, as gallant, brave, and devoted men as ever drew blade for the right, among whom were Olney, Ellis, Curtis, Pinto, Johns, Ebbitts, Lippitt, and Bartlett. The whole rank and file were composed of men seldom seen playing soldier, and though many of them had never before shouldered a musket, such were their intelligence and zeal that a few days' vigorous and attentive drill was sufficient to make of them efficient men-killers.

Many served in the ranks as common soldiers who would not accept seats in the Executive though entitled thereto in every respect by wealth, intelligence, and respectability. Of such was Thomas H. Selby, a merchant of the Coleman stamp, true and pure as the all-regulating sun, afterward mayor of San Francisco, and in all his relations, private and social, beyond

the suspicion of reproach. Of such were John O. Earl, Samuel Soulé, George H. Howard, Charles R. Story, S. P. Webb, W. W. Montague, H. S. Gates, and a thousand others.

Many more there were whose names with equal propriety I might mention; but enough, I trust, has been given to enable the reader to form a just conception of the character and quality of the Executive Committee. In every association, even of able men, there are some who fail in that efficiency which commands admiration; and this not through lack of enthusiasm, or even necessarily of ability, for such may be ill-fitted to duties or hampered in the discharge of them. Able men are not all equally able in different departments of usefulness. There is as much genius displayed in adjusting character and talents to the work to be performed as in the performance of a great work.

There were in the Executive Committee two distinct elements, the only abstract principles which at any time divided the members of the association or any committee of the association. Indeed politics, religion, morality, and all the great questions affecting society being strictly eschewed, all except the one great question of crime and its punishment, there was really nothing else to divide upon than simply as to the intensity of the reform. "In a body of that kind," says one of the Executive, "there are certain always ready to hang any man; and half a dozen have to be restraining the hot-headed portion." There was the radical element and the conservative element, the former in favor of inflicting extreme punishment on all offenders without too careful inquiry into the nature and extent of guilt and the legal penalty attached to it, the other taking no step except after the most careful consideration, and inflicting no penalty beyond that applied by law, and that only after the guilt of the criminal was established beyond a peradventure. Fortunately the conservatives were sufficiently in the majority to hold the others in check,

otherwise their bark would have split upon the rocks before well outside the harbor.

The leaders of the Committee found that they had undertaken a task which taxed their utmost wisdom and energy; but they appear never to have faltered in council, never to have hesitated in the field. Throughout all their trials, their perils, their temptations to excess in the use of almost unlimited power, their associates honored them with unswerving faith and an adherence which deserved the triumphant success that finally crowned their efforts; a success, however, won only after a struggle between the forces of the Committee and the civil and military powers which at one time had well nigh assumed the proportions of a revolution.

Under their auspices an extraordinary and complete system of police with magical celerity sprang into existence over the entire country. In tracking crime their scent was sure, their aim unerring. They undertook nothing that they did not execute; they made no mistakes in their arrests and executions. No innocent man suffered at their hands. Prudence and moderation characterized their conflict with crime on the one side and law on the other. Four only of the worst criminals the San Francisco Committee exterminated, the rest they drove from the country—an almost bloodless victory when we consider the result accomplished. Posterity will rise in homage to the majesty of mind displayed on these occasions.

"They manifested a marvellous power to control excited multitudes, to develop their capacities, and turn their energies into channels of action," says Mr Dempster, who, though he was one of them, saw further into them, into their nature and design, into their little ambitions and their large unselfishness, than any other. They had no time for long discussions on the sacredness of law. "Some questions will improve by keeping" with Daniel Webster they used

to say. The London *Times* asserted of them, after their work was done, that they had shown sufficient ability to found a state organization, a nation, if circumstances had demanded its exercise.

Stolid physical bravery most of them possessed, some in a remarkable degree. At the thundering at once of a hundred Sinais I should not expect to see them quail. But far above and immeasurably superior in its texture to their physical courage was their high moral courage. It needed nerve for the most law-abiding of men to break the law, to arraign the law and place it on trial for dereliction of duty, to incarcerate and try for his life the highest judicial official, to seize and hold with a grasp of iron the state government, and respectfully to warn off federal authority. For those to do this who had honor, households, reputation, wealth, love of God, and love of country at stake, I say called up a courage superior to that of the savage who taunts his torturing enemy or of the fanatic who to win heaven submits his body to the flames.

As time and events manifested conclusively that the Committee desired the public good and not private or individual advantage, public opinion ranged itself on their side; and before they voluntarily resigned the power which appeared resistless, and disbanded their forces, a strong majority of the people of California sympathized with their efforts and rejoiced in their success.

Though theirs was the amplest influence, as a rule they were free from ambition's crime; moderate, resolute, the strongest were the least pretending, being no less wise in council than efficient in action. Theirs was the wisdom of common-sense; theirs the greatness of simplicity. All the people knew them, and believed in them, believed them to be outside the pool of brain-fuddling forms, knew them as men of iron will and iron nerve, true to themselves and to occasion. It seemed that almost on the instant circumstances

had purged them of their traditional superstitions, even as Theodorus, Rabelais' royal physician, who, to cure Gargantua of the wickedness of his heart and the perversity of his brain, purged him canonically, so that he might forget all he had learned from other teachers.

While rigidly restricting themselves in the exercise of the power assumed, the leaders of the movement sought by every means in their power to impress upon their followers that the great duty of the organization was to execute the spirit of the laws which had so long been defied; that the existence of the Committee sprang from a universal determination that these should thenceforth be enforced, and that their duties must be limited to a dispassionate and impartial outpouring of the essence of law which might not be dissipated by suicidal adherence to form, when it was found that such action defeated that protection of life, liberty, and property which law is established to maintain.

The acts of the executive committee were singularly free from blunders. I search in vain for one serious error of judgment, or for a signal failure in the attempted execution of their purpose. From their organization to their disbandment, wisdom, coolness, and courage characterized all their actions.

It is easy to magnify motives which actuate either good or evil results. Always I strive to deliver myself from this propensity. And yet it seems to me that the candid observer of heroic actions which illumine the highways of history fails to discover higher or purer considerations than those which governed these men. The lust of power was not apparent; for what is power where identity is lost? Honor? They shrank from it, and swore to each other a solemn oath that their deeds should be secret. Wealth? Their labors cost them much time and money, with no hope of any return, not participated in by the humblest citizen, unless, indeed, it should be in the shape of the anathemas of those who opposed them. I see no-

where in history, I say, greater unselfishness. You do not find it in religion, in missionary enterprise, in any kind of proselytism. All religion, even that of the meek and lowly Jesus, is based upon selfishness: Do good and receive the reward. Patriotism, which covers hypocrisy, is the lowest form of selfishness; The open and honest money-maker is a nobleman beside him who plays upon the unselfish instincts of his fellows for his own selfishness.

Patriots, indeed! I would not insult these men by calling them patriots. What is a patriot? One who loves himself supremely, and his country a little because he happened to be born in it. One who in seeking public favor seeks not the public good, but Iago-like, himself. Patriotism is but a reflex form of self-love. The Frenchman loves himself and France. To him art, science, and literature are French. Great men are Frenchmen, great thoughts and learning are French thoughts and French learning. Blot from the earth Paris, and from the earth civilization is blotted; sink France, and there is no world left. The German hates Frenchmen and France, but loves Germans and Germany. His talk is of Germany, her unity, her philosophy, her science, church, and army; and so on. The purity of purpose, the holy and unselfish considerations which urged forward these men of vigilance, were as much superior to what is commonly called patriotism as is Christ superior to Belial. Socrates says a wise man keeps out of public business. There were some as wise as Socrates in the Executive Committee. They now held power, but it was only in trust. *Mensura juris vis erat.* This they believed, that power was the measure of right, and that it was not their own but the people's. Martyrs are made of tough fibre.

Here was true nobility, true godliness, true manliness. Throughout their whole life, long after a knowledge of their secrets ceased to expose them to any risk, and when among their fellow-citizens it was counted

an honor to have been ranked among the number, each seemed to shrink from prominence in the affair, or to take to himself any special credit for any special act. "No," each spoke for himself, "I was but one in the great assembly, and I will not do hundreds injustice by arrogating to myself credit, or appearing more conspicuous than they, before the world."

Coleman, Dempster, Truett! and the rest, long may your memories be fragrant in the hearts of Californians; long may your names be held in grateful remembrance by generations to come! As gold to dross, in the evolutions of refining civilization your pure purposes shall stand beside the so-called patriotism of selfish statesmen; as glorious sunlight to sombre night, beside the piety of cant, the record of your deeds shall shed their radiance, blessing your children and your children's children till day and night are one!

CHAPTER VIII.

THE LAW AND ORDER PARTY.

A long train of these practices has at length unwillingly convinced me that there is something behind the throne greater than the king himself.

William Pitt.

THE term Law and Order Party is often applied to opposers of Popular Tribunals throughout this work. It may be well more clearly to define the term as herein used, and also the character of the persons composing it.

The party is never a palpable organization like the Vigilance Committee; it is seldom an association; yet the anteposition, which commonly takes upon itself this name, is always present wherever there is a popular tribunal. It is the natural enemy of any idea or principle not measured by stereotyped forms. In the assumption of this name it implies that its members believe in and conform their conduct, whatsoever the emergency, strictly to the existing laws, and that by so doing alone can order be maintained in the community. *Per contra*, popular tribunals, by breaking the law, engender only disorder. This position is stoutly maintained; as to the honesty and intelligence of those so holding, I leave it to the reader of these pages to judge.

But before questioning the sincerity or wisdom of those who style themselves promoters of law and order *par excellence*, let us glance for a moment at the *personnel* of the respective parties.

Committees of vigilance were formed for the most part of men of substance and character, of those

having some stake in the commonwealth. They were men of property, of family: merchants, mechanics, farmers, miners—workingmen all. In their ranks were found producers, who by the labor of their hands feed the world; those of industrial and commercial pursuits, who by their brain build cities and drive forward civilization. This is the class upon which crime preys; this is the class which must support not only the criminals themselves, but courts and their satellites tolerated for the suppression of crime. From this class governors, legislators, and judges draw their pay; from this class corrupt officials steal. Crime fattens on the fruits of industry, and lawyers fatten on crime. The interests of the industrial class lie not on the side of government, unless it be good government. They were the bone and sinew of the land, these men of vigilance, whose traditions fostered a love of truth, justice, and morality, and whose future depended upon their keeping these things inviolate.

On the other hand, the law and order party was composed of non-producers, for the most part respectable members of society, but who, in common with criminals, obtained support not by adding to the material wealth of the community, but by defending producers from the sharks and vultures that prey upon them. These were office-holders, judges, lawyers, sheriffs, policemen, jail-keepers, politicians, law-makers, and such nondescript subalterns, contractors, demagogues, manipulators of elections, and hangers-on as found food or profit in the law. Military men must likewise support the government, else their occupation is gone. These with their associates, sympathizers, and organs ranged themselves on the side of what they pleased to call law and order, and opposed any interference of the industrial class in the affairs of government.

I do not say that this distinction was arbitrary or universal. Many lawyers, preferring purity to old-time conventionalities, took sides with the reform

party; many officers of the law, military men, and government employés resigned their positions and joined the ranks of the popular tribunal. But in the main, the material composing the two parties was such as I have described. The public press, following the direction of its own interests, likewise divided, some taking their stand on one side and some on the other.

There was yet another sentiment that strongly influenced this division of opinion as to the right and fitness of this uprising. It so happened that the commercial and industrial interests of the country at that time were mostly in the hands of those born and educated in the northern states of the republic, while the affairs of government were more particularly looked after by those who had come hither from the south. Northerners and foreigners naturally took to work and trade, while southerners as naturally became politicians, ran for office, practised law, and filled official positions. Following their chivalrous proclivities, they lightly esteemed labor, and held law, politics, and like professions the only occupations befitting a gentleman. Hence it was, when shopkeepers, clerks, draymen, carpenters, and blacksmiths questioned the policy of these natural lords of government, they were looked upon as impertinent fellows, meddlers in matters which did not concern them. When they went further, and dared to lay their horny hand upon the sacred altar of justice, they were denounced as impious lawbreakers, violators of constitutional liberty, defamers of time-honored tenets, profane, and traitorous. On the other hand, the practical men of work and business asserted most emphatically that if law and law officers could not and would not suppress crime they would do it themselves, in spite of statutes, custom, or anything else. Though cursed by factions, the people are the power, and if roused by rank accumulated wrongs they vindicate it.

The contest waged at this time between vigilance

and law and order was more bitter than we can now well realize. Spreading to a greater or less degree among all the communities of the Pacific slope, it separated friends, divided families, and armed brother against brother in deadly hostility. All nature gyrates to the right; the opposers of vigilance were now twisting sadly to the left.

I do not wish to be understood as charging hypocrisy upon all those opposing popular tribunals. Those who live by the law, the high-priests of legal tribunals whose fires cannot be kept burning but by devout and humble worshippers, it is difficult for such as these always to see clearly, least of all to allow the profane rabble to tamper with their deity. Hence there was present honest difference of opinion, or what was called opinion, what perhaps the several opponents really believed to be opinion. For much of that which people call opinion, much of that which they really believe to be honest conviction, is nothing more than passion, prejudice, or partisan bias, based on self-interest, pride, education, and association. Evidence, and the careful balancing of the right and wrong of a question, do not enter into it at all. Men will to believe right that which accords with their interest, which is not belief, but desire. Biassed by interest or feeling, it is impossible for the merchant to look upon a matter with the eyes of the lawyer, or the man of conservative ideas with those of a reformer. Opinions are warped even in the ablest minds by the most trivial circumstances. Labor and capital, coöperative and private enterprise, employers and employed, agriculture and commerce, look upon questions from different sides, and arrive at decisions often diametrically opposed, honest, but erroneous.

And yet it is passing strange, if these men were honest and intelligent, that they could not see the falsity of their position, the inconsistency between their doctrine and their deeds. For of all members of the community these law and order men were the

first to right their wrongs, and break any law that did not suit them.

Law and order: that was the name they gave it. A well sounding name, especially in the mouths of rogues and politicians. But here on this coast had been law without order for years, and at last the people were determined to have order, even at the sacrifice, if necessary, of the forms of law. Law had become criminal, and must be put upon trial by the people for dereliction of duty. Good men left their business to perform jury duty reluctantly; straw-bail and false witnesses were plenty and cheap. The public mind, furthermore, seems to have become calloused, and the sensibilities even of the better class blunted; pistols, knives, and slung-shots had become to be regarded as adjuncts of life in California, if not a necessity, and their use now and then was expected as a matter of course. Respectable citizens, even those who felt it a conscientious duty, in common with all good men, to attend the polls on election day and cast their vote in their country's interests, kept away on account of the rowdyism and fighting which rendered the place unsafe.

"Law or no law," exclaim the men of vigilance, "the cause is just because it is necessary." "However pure your motives," return the men of law and order, "however necessary your stringent measures, you are warranted by no law, your acts are without foundation in right; therefore when you take human life, though it be of an open and notorious foe of society, you do a fearful wrong, you undermine the edifice of social order, you commit murder." "We have committed various acts of insurrection," continue the men of vigilance, "in assembling in numbers to accomplish by force measures not sanctioned by our written laws, in taking a large share of criminal jurisprudence into our hands without warrant, and in opposition to the regular constituted tribunals; in nullifying legal processes; in establishing a court whose jurisdiction

is bounded by its own discretion. But although we have erected a new engine, we have not broken the old one."

Expediency and illegality are the arguments *pro et con.* Whatsoever the condition of a community, howsoever democratic or despotic its government, whether it be based on bills of rights, articles of confederation, specific charter, or time-honored custom, should that government fail properly to fulfil its functions, its obligations, its agreements, the people not only possess the right, but it is their bounden duty to throw it off and fit to themselves a new form if they can. Between the government and the people there is an implied if not a written agreement; laws are established which it is the duty of the people to obey and of the government to enforce. If the people break the laws the government may rightly punish; if the government fails to fulfil its part of the compact, the people have the same right to punish the government. To say that the people break the law in throwing off an incompetent government, is to hold one side to the compact and not the other. So say the men of vigilance.

In all their arguments the advocates of law and order assume that law is right because it is law, that obedience to existing law is obligatory, however unrighteous the law, or by whomsoever made; which makes liberty a crime and any opposition to tyranny and oppression an unpardonable sin. All nations, from the beginning of history, have exercised the right of revolution whether they possessed such a right or not, just as the appeal to arms has always been the *dernier ressort* of diplomacy. Civil law may be held in abeyance by military law whenever necessity demands it; it is therefore not infallible. Like the laws of nature, religious and political institutions must of necessity embody elements of self-preservation, else they fall of their own weight. This is truth; all else is falsity. And the evidence of truth

is that it remains, that it cannot die. Laws of society, therefore, when, how, or by whomsoever made, are simply regulations for the preservation of society. Enfolding a preponderating element of self-destruction, they cannot live.

Mr Herbert Spencer relates a circumstance coming under his notice where "two law-makers propose to support the law by breaking the law." It is a trifle; something of almost daily occurrence. Two members of parliament become so excited over certain letters concerning the rules for the regulation of Hyde Park as to propose arbitrarily to punish the writer of them. Do we not see the most disgraceful scenes upon the floors of every legislative hall? It is not necessary to go to the capitals of our western states to witness the lawlessness of law-makers; our senators and congressmen at Washington use the knife and cudgel often enough to remind us that after all their legislation, muscle still is their ultimate appeal.

Inconsistently, as one would think, they who in 1856 bowed lowest in their idolatry of law and constitution, when roared rebellion five years later were the first to arm against the laws and constitution of the confederation. When crime reigns, and law lies bleeding, and the fangs of venomous villainy are fastened in the throat of justice, touch not the monster, they say; let law by law resuscitate itself or ever lie low. But when by pride, or prejudice, or real or fancied wrong their passions are stirred, away then with idle form; shall we, they ask, wrap ourselves in a Nessus-shirt of tradition and perish out of worshipful regard for that which has no regard for us? If it be their bull that gores the neighbor's ox, they are on the side of the bull; if the neighbor's bull gores their ox, then they favor the ox. They do not hesitate a moment to fight a duel contrary to law, and contrary to law to shoot a man for any insult. Multitudes of such examples seem to force upon one the conclusion that nine tenths of the so-called principles

of politicians are pure fiction. Blinded by the dust of their own egoism, deafened by their own hollow shouts, the stupid unthinking masses are tamely led by those whose principles are made and governed by self-interest, and changed as self-interest changes. I do not ask or expect men to serve their country at the expense of self; I only ask that they should not hypocritically profess to do so. This view may appear cynical, but I am no cynic; it is not humanity but humbug I hate.

Thus was opinion warped to the one side or to the other by interest and education, until in one instance at least the community divided and proposed to fight it out.

Writing Judge Field in November 1873, General Sherman, who was active on the side of law and order during the movement of 1856, says: "You and I believe that, with good juries, Casey, Cora, Hetherington, and Brace could all have been convicted and executed by due course of law; that San Francisco had no right to throw off on other communities her criminal class, and that the Vigilance Committee did not touch the real parties who corrupted the legislature and local government. Again, if the good men of any city have the right to organize and assume the functions of government, the bad men have the right, if in the majority." There spoke the soldier, a mind trained to military precision. The sentiment, however, loses somewhat of its force when we see how the author regulates his own conduct under it. About this time, one of these very men, Casey, published in a paper of which he was proprietor certain remarks derogatory to bankers, of which fraternity Sherman was at that time a member. Naturally the general was furious. "I went up stairs to Casey," he says, "and asked him what motive he could have for the article in question, so full of falsehoods and unfair deductions. He tried to make some excuse, alleging his

special guardianship of the interests of poor depositors, etc., when I told him that I would not permit anybody in our building to be concerned in such a dirty trick, and that if he ever attempted by false publications to levy black-mail on us and on our brother bankers I would pitch him and his press out of the third-story windows."

Another incident of judicial inconsistency where personal feeling is excited may be mentioned in this connection—an incident of early times, doubtless forgotten by General Sherman, as he makes no mention of it in his *Memoirs:*

Under the Mexican republic it was the custom in California for the municipal authorities to impose a duty, in addition to that collected by the custom-house officers, of six dollars per eighteen-gallon cask on foreign liquors. To avoid payment of this tax, liquors were usually landed in the night. Under American rule, however, and up to the permanent settlement of affairs in 1848, it was different; then accounts of sales were sent from the custom-house to Colonel Mason, military governor of California, who gave copies of the same to the alcalde, Walter Colton, that he might know who had purchased liquors, and so collect the municipal tax. While the United States ship *Lexington*, in April 1847, was lying in the bay of Monterey, two casks of brandy were landed one night and left on the wharf. Several soldiers happening that way spied the tempting poison, and procuring a gimlet, opened speedy connection between the liquid and their throats. In due time the two lay senseless beside the cask, where they were found and taken to the fort. One of them died and the other barely recovered. Lieutenant Sherman was so exasperated by the occurrence that, taking with him a *posse* of men, he proceeded to the wharf and tumbled the casks over on to the rocks, breaking them in pieces. The owner of the brandy brought suit against Sherman, who was tried before General Kearney, and

acquitted on the ground that the owner had no business to leave the liquor there to tempt the soldiers. Whatever the quality of General Kearney's law, Sherman clearly committed a lawless act, and however exasperating the circumstances or noble the object, they were certainly not more so than those which actuated the members of the popular tribunal he so carefully condemns.

Following is an extract from a letter to the Mohawk *Courier*, of the state of New York, by an eminent member of the San Francisco bar, who has often sat high upon the judicial bench: "Unfortunately for the peace and reputation of our city, there were some members of the Vigilance Committee, whose object being to bring the judiciary into disrepute with the people, for reasons which will hereafter appear, were not disposed to let the opportunity slip by unimproved. Bold, unscrupulous, and resolute in pursuit of their selfish ends, they pulled the wires and exercised the chief control in the association; and having thus far committed it, having thus far succeeded in their assumption and demonstration of arbitrary powers; having found the laws powerless, and the people, for the reasons before mentioned, unwilling to punish their violation of them, these designing spirits were not content to resign their power so easily. As the Indian tiger that, once tasting human blood, never afterward satiates its thirst for it or contents itself with less noble prey, so they, elated with their success, and the impunity which attended it in this instance, were resolved to maintain their organization, not for the useful and praiseworthy objects which they first proposed, but avowedly for the purpose of exercising judicial functions, and of setting the established laws and tribunals of the state, nay more, the very constitution of the United States itself, at defiance. They assumed and publicly announced their determination to exercise the right of searching pri-

vate dwellings without the warrant of law, and of arresting, confining, trying, condemning, and executing any whom their inquisitorial researches might implicate in crime. Judge, jury, counsel, and witnesses, sheriffs, jailer, and executioner, uniting each and every function in their own body, they publicly announced their intention to carry out their plans and purposes regardless of all opposition, and in defiance of the law: still, however, under the specious pretext of maintaining its supremacy and enforcing its decrees; in short, powers and privileges of a regularly organized legal tribunal." The significance and value of such sentiments lose much of their force when the reader is informed that the writer of the communication was once before the police court of the city of San Francisco for attempting the life of the editor of a city journal, the ball from the judge's pistol just grazing the editor's hair.

Like the clergyman who for bread must play in his pulpit the part most agreeable to his hearers whether he will or not, so the officers of the law, beguiling the thing they are by seeming other than themselves, sometimes think it their duty to hide their real sentiments under the cloak of hypocrisy, and pander to the imperfections and superstitions of the law which pays them for acting the part of its high-priest. A case in point occurred during the movement of 1851. Meeting one day Gerritt W. Ryckman, third president of the Executive Committee, John W. Geary, then mayor of San Francisco, thus addressed him:

"Mr Ryckman, I am astonished that you, of all others, should engage in this unlawful and disgraceful business."

"Geary," said Ryckman, "were you not a paid limb of the law you would to-day be a captain of vigilance police."

It was true. No sooner had Geary's term of office expired than his conscience, chameleon-like, assumed the popular color, and hastening to Ryckman, he said,

"I come as a matter of duty to tell you if I had not been mayor of the city I would have taken a leading part in the vigilance movement. I approve, in unlimited terms, of every act of the Committee as conducing to the prosperity of California."

But why confine ourselves to minor illustrations of the hollowness of partisan opinion, of which there are thousands, when we may step at once to the bench of the highest legal state tribunal, and among the supreme judges themselves find numerous instances of their utter contempt, in action if not in words, of that law which they dealt with such exactness to others?

J. Neely Johnson, governor of California during the vigilance epoch of 1856, and a hearty hater of anything like one's taking the law into one's own hands—unless, peradventure, he should happen to be that one—on the 17th of July 1851 at Sacramento offended the peace of that city by assaulting a journalist, Mr Lawrence, of the *Times and Transcript*, from which fight Johnson narrowly escaped.

The case of the chief-justice of the California supreme court, who, while in the full exercise of the functions of his high position, was arrested and tried by the Vigilance Committee of 1856 for a deadly assault on an officer of the vigilant police, requires no comment.

Of the many chivalrous deeds of Chief-justice Murray at variance with the law which he administered, one will here suffice: Entering the store of Hill, Clark, and Company, in Sacramento, May 22, 1856, Murray, accompanied by three friends, stepped up to Mr Hill and asked him if he had made certain remarks derogatory to his character. Not receiving a positive denial of the charge, Judge Murray seized Mr Hill by the collar, raised his cane, and struck him on the head, inflicting an ugly though not a dangerous wound. They were at the time standing at the office door. Hill's friends drew him into the store,

closing the door upon Murray, thus terminating a lawless and uncalled-for assault.

Says a counsellor-at-law, commenting upon the attitude of the Vigilance Committee: "Although this modern Areopagus was composed of men of high respectability, whose decisions, abstractly considered, were distinguished for impartiality and justice toward their victims; and although crime abounded in the city and the guilty had often escaped punishment in the legitimate courts, yet its organization and action cannot be justified on any sound principles. They were anarchic and revolutionary; and their apology is the overthrow of all security of person or property founded on constitutional forms and proceedings. The energy which the Committee displayed in the exercise of usurped authority might have been directed in aid of the courts, consistently with the constitution and the laws, with equal if not superior efficiency." This is the old, old story, and simply bald assertion. Their action can be justified on sound principles, on the soundest of all principles, the principle of self-protection; and for the rest, the conditions and the results prove the falsity of all such statements. Vigilance is neither anarchical nor revolutionary. It saves society from anarchy, and is a different thing from revolution, as we well know.

One calls it an inconsistent trampling of law underfoot to punish lawlessness, thus justifying in practice what it professes to denounce, and violating the sanctity of a principle, which is the only sovereign of a freeman, and, professing to obey which, he cannot disregard in practice without the establishment of a precedent eventually detrimental to the cause of constitutional liberty. Another exclaims, "Better that a hundred criminals should escape than that the whole law of California should be outraged by an act that denies at once the value and the authority of our government." In answer to which I would say that a state of things which would allow the escape of a

hundred criminals, or of one, should not be tolerated for a moment. Punishment, sure and swift, is a mercy to mankind, a charity to the poor degraded offenders. If God would chastise the wicked now, he would save worlds for heaven.

If we compare the two following extracts from the same journal, written by the same editor, the first published on the 5th of November 1850, and the second the 28th of August 1856, we shall see how differently this question was regarded from different standpoints and at different times:

In commenting on the many acts of violence and incendiarism following the first influx of convicts, such as knocking men down in the street, boarding a vessel and beating the captain, attempts to fire the city, and the like, he remarks: "We are opposed to lynch law, and even averse to capital punishment, but it would be a praiseworthy act to take out and hang in the Plaza the first man detected in setting fire to a house in this city, and we hope to see that gentle admonition given, should any of those wretches be fortunately detected." The editor certainly did not intend by these words to inflame the public mind, and he little thought then that the gentle admonition of which he speaks would be so quickly and so earnestly given. Five years later his tone is quite different:

"We are free to admit that there is such a right as the right of revolution. Our forefathers availed themselves of that right and overthrew the English rule in this country. It was a right which they possessed. It is a right which the oppressed people of Europe now possess, for the reason that they can redress their grievances only by revolution. They stand in the same position as our forefathers did nearly a century ago. There are, however, two kinds of revolution, physical and moral. The difference between our condition and that of the founders of this republic and the people of Europe at the present time is that we can accomplish by a moral revolution what the former

could only have effected, or the latter can now effect, by a physical revolution. We possess the right of moral revolution, they of physical." Sophistry so simple would be unworthy our notice but for the connection.

The arguments advanced by a certain San Francisco doctor of divinity were these: "Surely there is not a word in the Bible," he says with clerical *näiveté*, "that teaches Christians to rebel against the legal authorities of a free Christian land. The Bible teaches nothing if it does not require Christians to be a law-abiding people. The early Christians conquered by submitting even to tyrants. It is marvellous how you can find an analogy between some mere local corruptions in San Francisco and the causes of the English revolution of 1688, or of the American revolution of 1776, or of the war of Great Britain in the days of Robert Hall. In 1688 and 1776, and in the days of Cromwell, there was no way to obtain redress but by revolution. Fundamental laws had to be obtained. Great fundamental rights and principles, both as to the civil liberty and religious, had to be secured by force. The government was not then, as it is now, in the hands of the people. They had not then the right of making their own laws and electing their own officers.. Nor was there then, as now with us, a constitutional way to change or amend our laws and to remove unfaithful officers. There is no analogy or resemblance in the cases. With us, if the laws do not reach the evil, let the people, in the constitutional way, make laws that will reach it. The wrongs complained of in a popular government cannot make it right or expedient to paralyze all law. It is law and not lawlessness we want. Our government, as Chief-justice Marshall has said, is one of laws and not of men. It is the people, but the people embodied in a written constitution, and in written laws made in pursuance of that constitution. So ample and so specific is the method prescribed in our constitution and in our laws for

amending or changing them, that it is the decision of the supreme court of the United States that a revolution by force is impossible. It must be so; for if there is not a constitutional way of correcting the abuse of popular governments they cannot stand. My platform is the Bible, the constitution, and the union, just as they are." Which in the first place has ever been the platform of blind bigotry, and which in the second place is not true. The writer of the above lines a few years later was obliged to leave his pulpit and California because he was not satisfied with the union just as it was, and because he sympathized with rebellion.

It is not a little strange that in a mixed community like that of San Francisco, enjoying a liberty or license wider and less trammelled than that under any other republican government, there raged in certain quarters a fiercer fanaticism favoring absolutism than even might be found under many monarchical despotisms. Principles, however, are rarely separated from self-interest. It is worthy of remark that the law and order element, emanating from that school of chivalry which finds expression in the bowie-knife, the duello, state-rights, and rebellion, were of all republicans the quickest to defend their rights with their own arm in defiance of constitution or law. Having migrated to a new land, they clothed themselves in the robe of office, and fattened on the perquisites of the law. Law became to them what doctrine is to the religious teacher, a sacred thing, a *sine qua non*, involving wealth or poverty, influence or insignificance, food and raiment, or starvation and nakedness. The other extreme is found in the radical mob spirit. An individual rightly or wrongfully commits a rash act, it may have been in defence of his own or another's life; it may have been while laboring under aggravated excitement, so taunted and provoked that to pass the insult unavenged calls in question his manhood; or it may be he is only suspected of having

committed an outrage, and straightway without indictment by grand inquest, without the examination of a sworn and dispassionate tribunal, in the blindness of momentary rage he is seized and hurried away by the inflamed populace, and unconvicted of any crime, unannealed and unshrived, hanged on the nearest tree. Many instances are on record where a wretched victim has thus been deprived of life by a mad populace and afterward found guiltless of any crime, or, if guilty of the deed, it was found to have been committed under greatly extenuating circumstances, and not meriting the extremest penalty of the law. It was such lawless and sanguinary measures in the administration of justice, with excesses and outlawry in other directions, that brought opprobrium on California's fair fame. This is one phase of the subject; but this is not all. Vigilance reprobates one extreme no less than the other.

It is well enough in settled communities for statute-makers and legal dignitaries to defend the majesty of law and set the seal of opprobrium on rabble attempts to defy it; but where there is no law, or where law becomes inoperative, there is but one remedy for those who would escape anarchy and save themselves from social perdition. Undoubtedly some innocent men have suffered at the hands of an unorganized populace, have been inconsiderately and unjustly launched into eternity by a drunken mob; yet when the very best appliance for the dealing out of simple honest justice which human ingenuity can devise fails, it is scarcely wise to throw it aside for some worse system because it lacks perfection. Legal tribunals are not always infallible in their decisions, and the skirts of a more orderly justice have not been always clear of blood-guiltiness. Many a poor wretch is made unjustly or innocently to suffer, while the great scoundrel escapes with scarcely a blemish upon his golden escutcheons. To-day the administration of justice in all the courts of christendom is in many

instances a farce. The Mormons have a system which, though crude, is nearer right in principle than our own, for there he who feels himself aggrieved may lay his cause before his peers, and if necessary carry it from the lowest to the highest tribunal without cost; but who can win a suit, however just, in any of our courts without money? The heathen in our midst quickly understand this, as the following incident will show: In conversation with a bright-eyed smiling Mongolian, Ah Foy, a gentleman for whom he did washing expressed the opinion that one Ah Chung, lately arrested for the murder of Ah Li, his Celestial love, would be hanged. "Him no hang," exclaimed Ah Foy, "him all same Melican man; he got two thousand dollars! You sabe, no hab money, him hang; hab plenty money, no hang: all same Melican man." Three times in four when wrong is done the remedy is worse than the disease. Justice is too expensive a luxury, and so rascality thrives and honest men are brought low.

Let our wise and worshipful jurists study to perfect the system under which justice is at present administered before they so sweepingly condemn all other methods, however singular the emergency. Society breeds its own customs, and makes such yokes as best befit its distempers. In California, was crime to hold perpetual carnival because there were no Dogberrys at hand? If substance be superior to shadow, or the essence of morals to legal forms, then law must not be exalted above the power that makes law. The law protects those only who can handle it; suffer it to escape control, and it is a nullity. Rulers will never be much better than the people who set them up. Vicious governors and unjust judges can never long hold sway over good and just men. A fundamental element of progress is greater security to person and property. Not only is the power of man over nature ever increasing, but man's power over himself, which latter is the greater achievement.

Governors are the servants of the governed; judges, policemen, and all holders of public office, are subordinate to the people, who, under God, are almighty. What constitutes a state? Not legislative halls, with their law-makers and governors; not armed men and military accoutrements; not statutes, law courts, jails, and officers of the law—these are but the servants of the commonwealth, and their liveries. The people are the state; people, good or bad, according to the goodness or badness of the state. If the state is honest and high-minded, the people are so; if the government is mercenary, the officers corrupt, the press venal, the people are inglorious, base, and well befitted to such a rule.

This was no time or place for abstract theorizing. The assassin's knife was at the throat of society; courts of justice were inefficient or corrupt—in many places they had no existence; there were no jails, or none to speak of, and such as there were, criminals often were glad to enter as an asylum which should protect them from the fury of the populace. There were throughout the country no settled systems for the detection and punishment of crime, no police, no efficient officers of the law; every man of the community was hurrying hither and thither, absorbed in ferreting his own affairs, caring little what became of the land and people that he intended soon to escape from; and when the robber or murderer was arrested by his fellows, who would waste weeks or months or undertake a journey to some distant justice out of respect for forms and legal ceremonies when with their own eyes they had seen the deed committed and knew the man should die? The people must protect themselves by the simplest, quickest, and most practical system of retributive justice that it was possible to adopt, a system divested of mystery and delay, a system unnecessary and injurious to public morals in settled communities with an upright judiciary and the machinery of law perfect in its operations. No pun-

ishment is so effectual in the prevention of crime as the fear of certain and immediate death. In a roving border life, where conflict with savages and wild beasts is the normal state, where every man is armed against every other man, and the life of each is in his own keeping, the widest field is offered for the play of passion. In California, where most of the inhabitants were strangers to each other, wandering singly or in small parties through quiet cañons and pathless wilds, often having in their possession large quantities of gold-dust, the temptations to rob and murder were peculiarly great, for there dark deeds could be done with but little risk of detection, so that to condemn lynch law or mob law, unjustly or brutally as it was sometimes administered, is practically absurd. The forms and technicalities which in the judicial proceedings of settled communities are instituted for protection, are in lawless unrestrained societies for the same reason disregarded. In both cases the strictest justice is aimed at, and thus far experience teaches that thus in both cases it is best attained. Let him who would sweepingly condemn lynch law or vigilance committees first provide a substitute which promises protection. Among the criminal class the thirst for violence and blood increases in tenfold ratio with indulgence; if unrestrained it soon rages like the flames of a burning city, and the more uncertainty connected with arrest and conviction, and the longer the time which must elapse before punishment, the less are the feelings of horror and of fear for the penalties of crime.

CHAPTER IX.

THE GOVERNOR, THE GENERAL, AND THE PRESIDENT OF VIGILANCE.

One never needs one's wits so much as when one has to do with a fool.
Chinese proverb.

We must now go back a few days and review the situation from the standpoint of the opposers of vigilance.

Never in California was there so strong a feeling against popular tribunals as at this time. The sentiment was limited to a class representing the minority, and for that reason it was probably all the more bitter. Many had come to this state for the purpose of entering politics, and had staked their all for office. It appeared to them as if the whole country was alive with mobs and murderous committees, and they were heartily sick of such doings. In the eyes and consciences of many this disrespect of law was like trampling their religion into the dust. We all know how men will fight for their traditions, their opinions, the truth of them having nothing whatever to do with it. We have seen how the ranks of the opposers of vigilance were composed to a great extent of the worst elements of society; yet there were present some of the best elements. Of necessity there is something good in the worshippers of tradition, something productive of good in the act. "I never knew a man good because he was religious," says Coleridge, "but I have known one religious because he was good."

There is no lack of divinity in human nature; there is no lack of the spiritual in the material world. The

unseen and impalpable are as powerful in their influence upon us, in our organization, growth, and conduct, as are things material and tangible. Scores of sacred books have been made from mixed material, and even profane writings may mellow with age into something sacred. We might call the Homeric poems the first bible and the writings of Shakespeare the last. But religions have their birth and death. Long before Christ the philosophers of Greece scoffed at the gods of Olympus, and the floor of heaven, which was the azure vault, was swept of the supernatural by advancing thought. Yet not to all does the light come with equal clearness, and with many popular tribunals were as popular heresies or popular infidelities.

In the present instance the people were indignant. Passion is contagious. The law became indignant, and so did the military. Officials were angry because the people were, and soldiers must needs fight because they were made for that purpose. The army, however, gave the vigilants but little trouble. Those that could have brought matters to a bloody issue, to their great praise, be it said, would not; those who would, fortunately could not. The navy was under the direction of one less discreet, who soon began to talk loudly of annihilation. Many of the city officials, feeling their own weakness, became on that account all the more desperate.

But few of the United States authorities, however, took an active part in the movement, and these of course ranged themselves on the side of law and order. Most of them wisely refused to interfere, deeming the conflict one of those local disruptions which would spend itself soonest if left alone. Many reports at various times were in circulation to the effect that the United States forces at Benicia and the United States war vessels lying in the harbor would attack the Vigilance Committee, but such was never the intention of those who held these forces at their command. General Wool preferred rather to

keep the United States out of the affair; and to this end he directed Captain Stone, with a party of regulars, to proceed to Rincon Hospital, where were four large pieces of ordnance, and remove them to Benicia, that neither of the contending factions might seize them. This was a wise and humane proceeding. He had no fear that Mr Dempster would shoulder the United States and carry it off. Further than this, when General Wool saw with what wisdom and moderation the Committee were acting, and how large a majority of the people were with them, he addressed an order to the United States officers under his command to observe the strictest neutrality.

It will be remembered that it was on Wednesday, the 14th of May, that the shooting was done. And we have seen how quickly the officers of the law hastened to the protection of the assassin Casey, how they defended him at the jail, and how the criminal's friends and sympathizers united in armed squads for his protection. Next day, Thursday, there was scarcely less activity manifested in law and order circles than at the rooms of the vigilants. The police force was increased, the armories were replenished and put in order, and recruiting and drilling were prosecuted vigorously. The sheriff summoned *posse* after *posse* of those on whom he thought he might rely, and armed them for the defence of the jail. The military companies, fagged out by a whole day and night on duty at the jail, on Thursday morning were dismissed by Colonel West. During the day a detachment of the National Lancers rendezvoused at the City Hall, subject to the order of the mayor. The citizen-soldiery, though hissed and hooted at by the excited crowd, admirably maintained their equanimity; indeed they were too much in sympathy with their assailants to attempt retaliation.

By Friday morning it was apparent that a strong effort was being made to organize and bring out the state militia to put down the insurrection. An order

was issued by the sheriff and served on various persons favorable to the cause, calling a meeting, which was held at the place and hour appointed. Here is the order:

"STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO.

"To ———, a male inhabitant of said county, and above fifteen years of age: Whereas, I have good reason to believe that a serious breach of the peace and riot are to be apprehended, and that an organized attempt will be made violently to wrest from my custody a prisoner committed to my charge for safe-keeping: Now, therefore, by virtue of the authority in me vested, and in the discharge of my duty as sheriff of the county of San Francisco, you are hereby commanded to be and appear, at half-past three o'clock P. M. this 16th day of May A.D. 1856, at the Fourth District court-room, in the city hall, in the city of San Francisco, to aid me in the execution of my official duties in the premises.

"*San Francisco, May 16, 1856.* DAVID SCANNELL,
"*Sheriff of the County of San Francisco.*"

This call was answered by some sixty prominent men, mostly judges, lawyers, and primary election manipulators, who expressed their willingness to fight in support of law. After a desultory debate the following resolution was adopted:

"*Resolved*, That we, the citizens of San Francisco, have heard with great regret of the injury inflicted upon Mr King by one Casey; that we deprecate the existence of the present excitement and its cause; that in the event of the death of Mr King we are in favor of the immediate presentment of Casey by the grand jury, his immediate trial by a court of competent jurisdiction, and, if convicted, his immediate sentence and prompt execution."

The meeting then adjourned, and soon after the men of law met and placed in command William T. Sherman, just then made major-general of militia by the governor. The party then divided into companies, each electing its own captain; after which all separated to meet at half-past seven that evening.

Those detailed by the sheriff as special officers were then ordered to repair forthwith to the jail and enter upon their duties of guarding the prisoner and preserving the public peace. About one hundred men were placed on guard; sentinels paced to and fro upon the prison walls, and others were stationed with loaded

muskets in front of the premises. Meanwhile the governor of the state, at Sacramento, had been telegraphed by the mayor of San Francisco that his presence was required. The governor at once responded, and arrived in the city that evening.

Unfortunately for those who aimed at arbitrary justice, James King of William had arrayed against him not only a large class but several classes. The press he had offended because he had castigated all who apologized for irregularities in public affairs. The Catholics he had offended because he had taken exceptions to certain acts of their clergy. Citizens from the southern states he had offended because of his antagonism to their ideas and codes of chivalry. All these elements now threw their combined weight upon the side against the Committee. It was assailed as King's champion, a merchant-mob, an anti-slavery rabble. This, as well as the efforts of the mayor, the sheriff, certain of the military, and others, public and private, to suppress what some even dignified by the name of a rebellion, the Vigilance Committee greatly regretted; but as there was no help for it, they nerved themselves the stronger to meet the issue. Besides all this, and in addition to the innumerable questions hourly arising within the Committee rooms, they were fearful on the one side that the organized masses would forget themselves and open an assault, and on the other that the prisoner Casey would be spirited away, under the connivance of his friend the sheriff.

The governor of the state, whose name was J. Neely Johnson, was not a man of pronounced character. In morals and religion he was loose; in rectitude and honesty he was not stern. As chief magistrate he was artificial and inconsistent; he could not play any very deep part, small things being to him great, and great things small. Some natures are more susceptible than others, but the most susceptible are not always the most profoundly or permanently moved. The land is more quickly heated by the sun than the

sea, but the sea is warmed to a greater depth than the land; likewise, the land loses heat more rapidly by radiation than the sea.

Of more natural rectitude than Bigler, he had not the cunning of Weller. Left to himself, the Committee would have had no trouble with him, for besides being no match for them intellectually or practically, he had no special desire to injure San Francisco or to interfere with the will of her citizens. But he was afraid of his partisans. Although a lawyer, he cared little for the law; lacking the chivalrous ideal, he magnified chivalry. His supporters were mostly among the political and office-holding class, though he had great respect for the beans and bacon sellers. A stupid ruler is the greatest of American blessings if he be good-natured; but make him angry and he will back the state off a precipice and carry himself with it. Poor ignoble Johnson! In this his dire dilemma he was cursed alike by friends and foes, and never again in the eye of the people did he rise to common respectability.

The Sacramento boat was due at nine o'clock. At half-past nine on the Friday night of Johnson's arrival Coleman received at Turn-Verein Hall—the removal to Sacramento street not having yet been made—a message that the governor was at the Continental Hotel, that he desired an interview with the president of the Vigilance Committee, and that he would repair at any hour to any point the latter might indicate. Mr Coleman informed the messenger that he would wait upon the governor at his hotel immediately. Without prelude or subterfuge both came to the question at once.

"What do you want?" demanded the governor.

"Peace," replied Coleman; "and we would like to have it without a struggle."

"But what is it you wish to accomplish?"

"Much that the vigilants of 1851 accomplished: to purify the moral and political atmosphere, to do

what the crippled law should do but cannot. This done, we will gladly retire. Now governor," continued Coleman, "you are asked by the mayor and certain others to bring out the militia and crush this movement. I assure you it cannot be done; and if you attempt it, it will cause you and us much trouble. Do as McDougal did; see, as he saw in a similar demonstration, a local reform merely. We ask not a single court to adjourn; we ask not a single officer to vacate his position; we demand only the enforcement of the laws which we have made. If you deem it the duty of your office to discountenance these proceedings, let your opposition be in appearance only. You know the necessity of this measure; you know the men managing it; you know that this is no mob, no distempered faction, but San Francisco herself that speaks. Leave us alone in our shame and sorrow; for as God lives we will cleanse this city of her corruption or perish with her. So we have sworn. Issue your proclamations if you feel that the dignity of the law may be best maintained by frowning on justice; declare your manifestoes if the government can maintain its self-respect only by public protestations against virtue; but leave us alone in our righteous purposes."

"Sir," said the governor, taking Coleman by the hand, "go on in your work! Let it be done as speedily as possible, and my best wishes attend you!"

All which was most considerate on the part of the governor; most benignant. Undoubtedly he was sincere in every uttered word; at that time he intended to do as he had said. But Johnson fell on evil companionship, and Johnson was weak. He requested Coleman to hasten his undertaking. "For," said he, "the opposition is stronger than you suppose, and the pressure upon me is terrible." After some conversation concerning the prisoners who were the immediate cause of this commotion, in which Coleman declined in any manner to commit himself or his associates, the governor and the president parted.

If at this juncture, with affairs in their present position, a man of ordinary firmness and discretion had been at the head of state authority, ten days would have seen the reform accomplished and the Committee, if not formally disbanded, essentially so—ten days at the furthest. Said Governor Foote subsequently at the McGowan trial at Napa: "Had Governor Johnson listened to me, within five days after he himself had ordered the surrender of the jail the Committee would have been disbanded, and all the subsequent difficulties avoided." But coercion forced upon the Committee the attitude of defence; for the thought of retiring from their unaccomplished purpose seems never to have occurred to them.

Later that same Friday evening, after Coleman had returned to his work in the Committee room at Turn-Verein Hall, a messenger brought him word that several gentlemen, Governor Johnson, Mr Garrison, General Sherman, and others, were at the door requesting an interview. Coleman found them in the anteroom. Johnson's manner was changed. He had evidently been under the influence of the opposing party.

"We have come to ask what you intend to do," began Johnson, as if there had been no previous conversation upon the subject, "and to ascertain if matters cannot be amicably settled."

"Outrages are of constant occurrence; our suffrages are profaned, our fellow-citizens shot down in the street, our courts afford us no redress; we will endure it no longer." Such was the reply.

"I agree with you as to the grievances," said the governor, "but I think the courts the proper remedy. The judges are good men, and there is no necessity for the people to turn themselves into a mob, and obstruct the execution of the laws."

"Sir," replied Coleman, "this is no mob. You know that this is no mob. It is a deliberative body, regularly organized, with officers pledged to do their

duty. It is a government within a government, the very heart of government pulsating under the poisonous effects of unrebuked villainy."

"The opposition is stronger than you imagine," continued the governor; "there is danger to the city, great danger of bloodshed, which should be prevented if possible. It may be necessary to bring out all the force at my command. I would suggest that you take no active steps; hold yourselves together if you like, but leave the cause of Casey to the courts; and I pledge myself in his fair and speedy trial, and the immediate execution of his sentence."

"That will not satisfy the people, who, however they may regard your intention, will doubt your ability to keep such a promise," was the reply. The conversation became general. Shortly after Coleman withdrew, saying that he could take no steps of a definite character without consulting his associates. He briefly reported the conversation in the Executive room, where the governor's proposals met with prompt disapprobation. Returning to the conference with Messrs Truett, Arrington, and others, Mr Coleman repeated the governor's proposition, that there might be no misunderstanding, and again the officials were assured that there could be no possibility of any halting or concession on the part of the people.

It was then suggested by a member of the Executive that the Committee should promise to take no active steps against the jail, or the prisoners, without first giving the governor notice of such intention, provided the Committee should be permitted to place in the jail a squad of say ten of their own men to act in conjunction with the state and county officers to insure to the people the safety of the prisoners. This guard should be furnished food and comfortable quarters, and should be treated in every respect as became the people's representatives, and such guard might be relieved as often as the Committee desired. This conceded, the Committee would remain quiet

for the present; and if at any time they desired to withdraw from the compact, they reserved the right to do so on withdrawing their guard from the prison and giving the governor formal notice to that effect. A guard of thirty under Olney had been placed round the jail Thursday night. These in citizens' dress, with no distinguishing badge, armed only with revolvers, and frequently relieved, stood round the enclosure and at the openings communicating with the street to see that none escaped. But it was more fitting the vigilant guard should stand within the walls. In all this the Committee did not ask possession of the jail or of the prisoners; but the measure, if adopted, would be regarded as purely precautionary, that the people, who were apprehensive of the escape of the prisoners, and who demanded action, might be assured of the security of the men-killers there confined. This was finally agreed to on both sides. The governor and his attendants withdrew, and proceeding to the jail gave instructions that the vigilant guard be admitted. Half a score of picked men, under two good officers, were immediately despatched thither by the Committee to carry out the arrangements.

This was Governer Johnson's third mistake on that single Friday night. First, he should have kept away from the Committee entirely, whether he proposed to countenance or to crush it. Secondly, referring to his *laisser faire* policy, he should have done without pledging himself, what he pledged himself to do and did not. Thirdly, to brand the gathering a band of rebels, and then to treat with them to their advantage, was the very irony of wise rulership.

Next morning, Saturday, it came to the ears of the Committee that the governor and his *confrères* had expressed their doubts as to the maintaining of the compact of the night previous on the part of the Committee. In announcing to their party the terms of the compact, they had, moreover, either intentionally or otherwise, misconstrued them, in letter

and in spirit. They affirmed that this truce extended to a permanent armistice, almost to a surrender of right of action on the part of the Committee; that in availing themselves of the permission accorded the Committee to introduce into the prison their guard for the further security of the prisoners and the satisfaction of the people, the promise was implied, if indeed it had not been expressed, that the case should be left to the courts, and that the people should not interfere.

It was a source of great surprise to the Committee, who had entered into this compact in perfect good faith, and who had taken special pains that there should be no misunderstanding of its terms on either side, to learn the construction now placed upon it by their opponents; it was mortifying to them. They felt aggrieved at the false position in which the governor and his associates wished to place them. In their single-heartedness of purpose they could not understand why men pretending to have in view only the welfare of the city should wish to play the citizens false. They could account for this strange misconstruction of so plain a proposition, limited to the single agreement on the part of the Committee not to move on the jail while their guard was there, only in one of two ways: either their error arose from confusion of mind incident to the excitement attending their novel position before the people's representatives, or else, their eyes being opened to their mistake, and unwilling to be regarded in the light of political and military leaders outwitted and outgeneraled by plebeian mechanical non-professionals, they sought to hide their fault under this base subterfuge.

But little it availed them. The Committee, who were men careful to promise and strict to perform, men to whom chicanery and duplicity were strangers, men whose art was common-sense, whose shrewd wisdom the energy of high and honorable enthusiasm—these well knew the terms of the compact, well

remembered what they had promised, and, knowing, they proposed to do that and nothing else. I cannot write these vigilant leaders down knaves or fools, as I must needs do in order to entertain for one moment the charge thus laid at their door by the opposition. For first, they well knew they could not stop the movement if they would; that with five thousand deeply determined men at their back, men of whom they were but the mouth-piece, they might as well hope to dam Niagara with a handkerchief as to divert the people from their purpose. And secondly, the Executive themselves would have died sooner than have forfeited their oath and honor, betrayed the trust imposed upon them, and slunk back to their homes the slaves of villainous circumstance. They never promised to rest their proceedings at this point; they only agreed that their prison-guard, introduced by courtesy of the authorities, should satisfy their colleagues for the moment, and should not at any time be employed as the entering wedge to their own admission into the prison. And they never were so employed in the slightest degree. The stipulation was of no collateral benefit whatever to the Committee; the introduction of their prison-guard within the walls was for the simple object expressed by them at the time, and for nothing more.

Later on Saturday, hearing the construction placed by the governor's party on the compact, all the members who had met the party the night previous being present, the executive committee passed resolutions that they would make no change in their position at the county jail, and had then no further answer to make the authorities, who questioned them as to their purpose. They resolved, moreover, that they would notify the governor that they would maintain the treaty made with him the evening previous, and that the same involved no pledges on the part of the Committee, except that they would make no attack on the jail while their guard remained within it.

General Sherman seemed not unwilling for an opportunity to display his military genius in mustering forces for an attack on his fellow-citizens. As to the right and wrong of the principles at issue he was as capable of judging as the average citizen of San Francisco; not more so. He did not herein display any remarkable breadth of intellect or precision of thought. He was a good soldier; he could plan campaigns, and move regiments with skill and success, but these duties were no aids to clear unbiased judgment. He was chivalrous and loyal, but these are not the *media* through which the mind arrives at just discriminations. Made mechanical by body drill, mind drill, and soul drill, in feeling and in principle, when the high-priest of his profession was touched, even in the hem of its garment, careless of the humane and just, he was as ready, ay, apparently more ready, more eager to slay the righteous than the wicked.

It ill became one so ready himself to break the law, whenever passion or prejudice dictated, to manifest such murderous ambition when his neighbor broke the law upon necessity and high moral principle. Upon this principle of vigilance Sherman's ideas seemed somewhat erratic. In a former chapter I have spoken of his going to the upper floor of his building and threatening to throw Casey and his printing-press out of the window if he did not cease the publication of certain obnoxious articles, which was, to say the least, an energetic demonstration for a champion of law and order. Again, I mentioned the fact of his rolling off the wharf at Monterey certain casks of brandy whose contents had intoxicated his thieving soldiers, which manner of procedure in such cases I find nowhere laid down in statute-books. Yet another fact points to feeling rather than thoughtful consideration as the governing principle. Subscribing funds, in common with other bankers and business men, for the support of the Vigilance Committee at the out-

set, when made general of militia by Governor Johnson, and placed at the head of the forces organized for crushing the movement, he refused to pay his subscription. How different such conduct from that of those whom for the exercise of their fixed and unselfish principles he would have slain!

And yet another inconsistency of Sherman's which I had omitted. Strange how these things come to one when once the subject is started. To Captain Dimmick of San José, W. T. Sherman writes the 22d of December 1848 concerning certain irregular though perhaps *quasi* legal executions. I quote from the original letter:

"I received your note a few days ago, and assure you I was well pleased to hear of your election and that you had hung those three men. You may rest assured that Col. Mason fully approves of the step—as he will in all cases when he finds that the accused have fair trials. A good many men will have to be swung before an honest man can travel in the country. Ord has gone down to see about the S. Miguel murder. I expect every day to hear that they too have been hung. An alcalde can execute any sentence, in my opinion, when the jury sentence and he feels that there is no doubt. The only danger is that some may act too hastily and hang the wrong man. Such will not be the case when the alcalde is a discreet man. Capt. Ingalls has just returned, and tells me that one man of that gang was whipped and the other two were awaiting trial. If they are guilty, they too should be made an example of, for then the many robbers will see a determination to punish and will be careful what they do. I think a good record of each case should be kept, so that the territory would at no future time be accused of encouraging lynch law. I write this privately, as you know my office is in the military branch of government—not civil. I shall always be glad to hear from you and will serve you in any way in my power."

Thus we see, originating from the same source, three forms of popular power, the civil, the military, and the social, apparently opposed to each other. In reality there was no antagonism between them. But it required more than human discretion for each, under tantalizing and untried circumstances, to maintain that just equipoise which would avoid any display of pride, passion, or prejudice.

CHAPTER X.

ATTACK ON THE JAIL AND SEIZURE OF PRISONERS.

Let them call it mischief,
When it's past and prospered 'twill be virtue.
Ben Jonson.

SATURDAY afternoon the marshal was ordered to review the troops, and to have his whole force under arms at eight o'clock next morning. Fifteen hundred infantry, besides several companies of cavalry, and a fine park of artillery, with pieces of various calibre, were reported ready for service. More would be on the ground before sunrise. During the evening the Committee examined their forces in person, and found that a remarkable degree of proficiency had already been attained. The men were full of enthusiasm; they expected something to be done, they were impatient for it. Of the regular vigilant military there were at this time twenty-six hundred, with about four hundred under arms who had not drilled in any company. These latter were assigned to guard and other duties.

The time was at hand. The determination to move on the jail, demand and take the men Casey and Cora, bring them to the Committee rooms, give them a trial, and if found guilty to inflict punishment upon them, began to assume form. The guard should be withdrawn, and the governor notified according to agreement. In pursuance of the right, though extraordinary measures seemed necessary, nothing should be done that might not bear the scrutiny of honorable men, nothing that should stain the fairest integrity.

Colonel Olney was sent for. "Will you accept the

command of a picked company in an important and somewhat perilous movement under contemplation?" asked a member.

"I will with thanks," was the reply.

"Choose then out of all the vigilant forces of whatsoever companies sixty men. Let them be those who have seen service, if possible. In any event, accept none but men of unflinching bravery; let them know that they are chosen for the post of danger, which is the post of honor, and permit none to serve who shall not so esteem it."

Accompanied by two members of the Executive, Olney then visited the different companies, and requested their several commanders to call forward such as had served, and who were willing to volunteer to go to the front on dangerous duty. A rush from all quarters was the result; and for every one taken five disappointed applicants were left.

The selections completed, the men were ordered to meet immediately at head-quarters. John S. Ellis was made first lieutenant, and J. V. McElwee, George F. Watson, H. H. Thrall, Asa L. Loring, and H. L. Twiggs were named as assistants. Then all went to drilling, working heads as well as heels and hands, and twelve o'clock that night saw the little company in very good condition. "There they are," said Olney proudly to the Executive next morning, "there they are, every man of them of good tough courage, and you can handle them as well as any old soldiers."

Taking a map of the city, the president entered the marshal's room, and the two seated themselves at a table. The entire vigilant force was then divided into squads and companies, and the position of each assigned. The time required for each division, marching by a designated route from the place appointed to reach the prison, was carefully estimated. A plan was drawn of an attack; and the marshal was instructed to station his several divisions at the places indicated, and at a given moment each was to move.

No commanding officer of a division was to know the orders given to the commanding officer of another division. Each had only his own duty to do; and this was made so simple that there could be no mistake. Starting from one point at a given time, and marching by a given route, he must be at another given point at another given moment, neither sooner nor later; and there must be no mistake about it.

Early Sunday morning the Executive were in close conference. It was agreed that all business connected with the association, other than that immediately in view, should rest; that there should be no admission of members, no granting of interviews, or examination of reports, and that no member entering the general rooms that morning should be allowed to leave the premises without the special permission of the Executive. The most inviolate secrecy was charged on all. The mouth of him receiving orders was hermetically sealed, and though his mind might conjecture what others were to do, his ears were open only to what concerned himself. In view of the inexperience of officers as well as men, a committee for the day was appointed, known as the war committee, with power to coöperate with, and, if need be, to direct the marshal. This committee was composed of Truett, Osgood, H. S. Brown, and the two Thompsons. Mr Smiley's name was subsequently added to the others.

One hundred picked men, of whom Frink was one, were ordered to station themselves upon the hills in convenient proximity to the jail. They were armed only with pistols, and these concealed; they were likewise scattered so as not to attract attention. They took their position at half-past ten, at which time the jail was well defended by the roughs. At half-past nine o'clock the Committee's guard was withdrawn from the jail, and the following letter sent the governor:

"*To His Excellency J. Neely Johnson:*—

"DEAR SIR: We beg to advise you that we have withdrawn our guard from the county jail.

"By order of the Committee. No. 33, *Secretary.*"

The plan of attack was as follows: Certain divisions were to rendezvous at certain points, for the most part at their respective drill-rooms or other more convenient spot. The main body was to start from the Committee head-quarters on Sacramento street. At the appointed moment all were to move, and approaching the point of convergence by different routes, each was to take the position assigned it. This was arranged so that there should be two bodies on Broadway immediately in front of the jail, one approaching by the streets on the east side, and the other by the streets on the west side, and on the hills north of the jail another body. These in taking their position should march and countermarch before the prison, in order to display somewhat their prowess and give time for reflection to those within. Their movements should be watchful, but deliberate. Round every block in the thickly settled portions of the city squads were stationed and patrols doubled, that no advantage might be taken of the absence of citizens from their homes by house-breakers and thieves. Instructions were peremptory that there should be no noisy demonstrations, no shouting or cheering, nor even loud talking. It was a solemn assembling for solemn purposes; and let every participant in the proceedings feel the weight of responsibility resting on him.

It is sufficient for us to follow the main body, which formed at head-quarters on Sacramento street. By nine o'clock the streets in that vicinity showed unusual signs of life for a quiet Sunday morning. Those in the immediate neighborhood began to inquire what was to be done, but they received no satisfactory reply. Any one might surmise, but no one had aught to say.

Colonel Olney's company, called the Citizens' Guard, was placed at the head of the column, it being their duty to act as executive escort and more immediate guard of the prisoners. Next after them was company 11, under Captain Donnelly and Lieutenant Eastman,

followed by a French company, Captain Richard; then a German company, and so on. Aaron M. Burns was on the grand marshal's staff with the rank of major, and commanded the battalion that brought the prisoners from the jail. Olney ranked next to the grand marshal; his company of sixty on this occasion were already equivalent to veteran soldiery and were in every respect to be relied upon.

Behold, then, this citizen army, men of every caste and calibre, thus so suddenly and unexpectedly fused by an idea. There was the baker, dusty from his kneading-trough; the brewer, fragrant with the odors of his occupation; the auctioneer, with his voice tuned to command; while the mild-mannered banker and the quiet merchant, who were fit for nothing else, were put into the ranks beside their own clerks and porters.

Just before marching, Olney addressed his company: "The duty is one of danger," said he. "I would not have you taken unawares. The company is dismissed for ten minutes. Any one who does not wish to risk his life is excused."

Not a man of them moved.

Shortly before twelve the order was given to march. Their course was up Sacramento street to Montgomery, along Montgomery to Pacific, thence to Kearny, and along Kearny to Broadway and the jail grounds. A solid body of glistening bayonets occupied the street, while on either side pressed a throng of spectators, increasing at every step, and the whole living mass moved simultaneously forward, past doors and windows filled with curious lookers on, toward the jail. And this, while worshippers were praying in the churches to be delivered from the evil, and while the wife and children of Casey's victim were tremblingly watching death's creeping shadow. Before the moving of the main body, and besides those who had set out for the jail from their own quarters, several companies filed out of the Committee rooms and took different routes to Broadway, those starting first taking the

longest route, so as to bring them all upon the spot at precisely the same moment.

Everybody in those days knew Colonel Gift—a tall, lank, empty-bowelled, tobacco-spurting southerner, with eyes like black burning balls, who could talk a company of listeners into the insane asylum quicker than any man in California, and whose blasphemy could not be equalled, either in quantity or quality, by the most profane of any age or nation. Gift was standing on the street, opposite the St Nicholas Hotel, talking with a New Hampshire lawyer named Grant as the great body of merchants and mechanics filed past.

"I tell you, Grant," said he, "when you see these damned psalm-singing Yankees turn out of their churches, shoulder their guns, and march away like that of a Sunday, you may know that hell is going to crack shortly!"

The jail was a strong one-story-and-basement edifice, with heavy walls of brick and stone, the upper portion of which was not yet completed. It stood on an embankment, since cut down to the street, and the front door was approached by steps badly constructed from the veritable lumber used as a gallows in the hanging of the poor Mexican, before mentioned, on Russian Hill. The rooms and cells were in the then half-story or basement which opened on these steps leading down the embankment to the graded street; its flat roof was overlooked by residents above Stockton street and those upon the sides of Telegraph and Russian hills.

The street called Broadway, on which, between Kearny and Dupont streets, the jail was situated, when graded cut through the base of Telegraph Hill. At this time the street was not open to the city front. Between Montgomery and Sansome streets was a high bluff, commanding a fine view of the ground in front of the jail, particularly suiting such spectators as delighted in a little distance between them and the belligerent citizens. All the streets for blocks to the south and west lay open to the beholder, so that the

simultaneous doings in each could be easily witnessed.

Seen from this spot, the assembling of the vigilants was grand in the extreme. Up Montgomery street they came, up Kearny, Dupont, and Stockton; up through the cross-streets, and forward and backward from street to street as each company had been appointed. Column after column marched up to the prison, some passing, wheeling, and countermarching to their places with fixed bayonets and military precision. In their plain attire the men were less conspicuous than their arms. The streets seemed filled with a solid blue of steel.

Just as the column began to move, Mr Watkins, one of the most active and reliable upon the vigilant police, was ordered to take two carriages from the Plaza and drive directly to the jail. He had been there but a few moments when he found himself hemmed in on every side. All the avenues leading to the spot were suddenly filled with soldiers, and house-tops round the jail were taken possession of by vigilant riflemen. Twenty thousand persons had by this time gathered upon the hills adjacent as spectators of whatever was to happen.

"Having only a moderate military experience," says Mr Coleman, "I perhaps exaggerated the precision with which these movements were made; but to me it was very charming to see every single command arriving at its respective objective point almost within half a minute of each other."

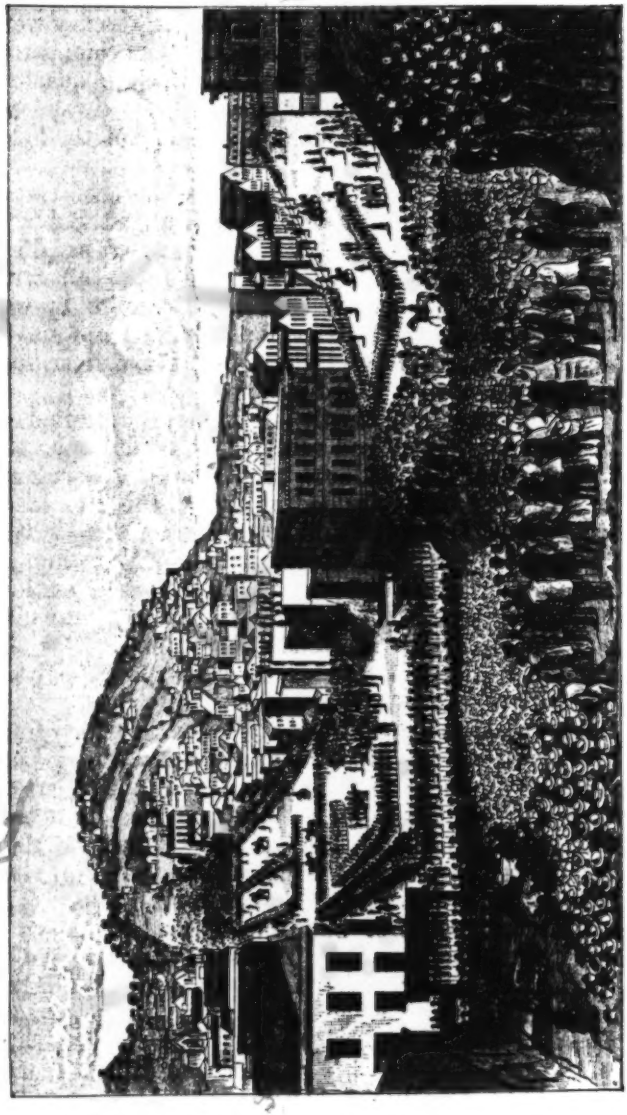
The entire force thus brought together formed a complete cordon round the block on which the prison stood, with a regularity that commanded the admiration of all present. "We see now what this means!" was written with smiles upon the faces of the troops along the line, brought to a halt by the meeting of other lines. No one was allowed to come within the lines formed by the military, or to pass out from the enclosure.

While for the moment the destinies of the day were left in the hands of the military, the war committee, accompanied by the president, hastened to quarters reserved for them on the corner of Broadway and Stockton streets, commanding a full view of the field.

It was one of San Francisco's loveliest of lovely Sundays. The stillness of a New England Sabbath ushered in the memorable day with that soft sunshine which under a cloudless sky freshens the air with ocean mists. This quietude as the day wore by was broken, not by rude alarms, but by the low tone of occasional command and the echo of the measured tread of many men joined in one purpose.

Again, when the bustle attending the arrival of forces at the prison had subsided, there fell upon the multitude another stillness, deeper and more solemn than that of the unruffled morning, the silence of awful expectation. It was characteristic of the day, this noiseless self-restraint, which removed their doings as far as possible from riotous demonstrations or passionate outbursts of temper. The marching of the citizen companies was unattended by drum-beat or the sound of instrument, and words were spoken only at intervals, and then in low tones.

The line drawn up in front of the jail extended from Kearny nearly to Stockton street. All the houses on the opposite side of the street from the jail were searched, that there might be no surprise from that direction. Immediately the Citizens' Guard had taken their stand in front of the jail a squad of artillerists under Colonel Johns arrived with a six-pounder, the property of the First California Guard, taken by a company under James F. Curtis for the use of the vigilants on this occasion from the store of Macondray and Company, where it was lying. The gun was placed in position by Lieutenant Ellis; it was then deliberately loaded with powder and ball, and the match lighted ready for instant use.



At this juncture Marshal Doane rode up to the door of the prison and gave three smart taps with the handle of his riding-whip. The wicket opened and the following letter, addressed to the sheriff, was passed in:

"*David Scannell, Esq.:*—

"SIR: You are hereby required to surrender forthwith the possession of the county jail now under your charge to the citizens who present this demand, and prevent the effusion of blood by instant compliance.

"By order of the COMMITTEE OF VIGILANCE."

This was at ten minutes past twelve. Mark the hour. The guard of ten had been withdrawn at half-past nine, leaving the sheriff in full possession. The notification of such withdrawal had been delivered to Governor Johnson in person by a member of the Executive Committee at eleven o'clock. The demand now made for the surrender of the jail was at ten minutes past twelve. The governor was advised by his friends, spies upon the Committee, of the fact that Casey was to be removed an hour before he was taken. There was plenty of time for him to bring out his forces if he could command any, or if he was so inclined. Lest the charge of duplicity, or breach of faith, might be laid at their door, these events, and the exact moment of their occurrence, were noted in the records of the association. The charge that this guard of ten was introduced for the purpose of opening the jail doors to three thousand armed men, who could have blown the whole affair to atoms in five minutes, shows how scant the foundation on which a lie may be based.

Mr Watkins, who was one of the captains of the guard of ten, states that Scannell, the sheriff, and Harrison, his deputy, were disposed to treat him cavalierly at first, but became more affable as time went by. He further affirms that Billy Mulligan was the only man about the prison who treated him with real civility. "On entering," says Mr Watkins of his first experience within the jail, "we found a large

number of men inside, stationed all over the jail, all well armed with double-barrelled shot-guns, rifles, and other arms, in addition to the regular force of the jail. Many of them were very valorous while they were inside; they outnumbered us about ten to one." Billy quite won his heart; the fact is, Mulligan did not know how soon he might be in a prison of which Watkins was keeper, and that not as captain of a guard of honor, but as captain of a band of thieves and murderers. "But among the modest men there," continues Watkins, "the man who treated us the best, and recognized us as the agents of the Vigilance Committee, was William Mulligan. He was on guard there with the rest, and treated us in a very gentlemanly manner, to my surprise ordering breakfast for us, and providing other accommodations."

There were now not more than twenty officials about the prison, and it was soon discovered that the sheriff intended no resistance. Standing upon the jail roof, apparently spectators only of the singular scene, were two deputy-sheriffs and three or four police officers, none of whom made any display of arms. These at one time made a move as if to descend, when the marshal shouted, "Stay where you are, or we will fire on you!" Within the prison were Sheriff Scannell, with two or three deputies, and Marshal North, with one or two policemen, all watching the movements outside with intense interest. Of serious aspect were their countenances, but there was nothing in them to show anger or opposition.

What were the thoughts of the criminal Casey, as he lay in jail, the centre of this social whirlwind which his evil destiny had so unexpectedly invoked? The journals of the day furnished him entertaining reading enough; some of them were a little too personal in their remarks to suit his pride, but after all it was a grand thing to be the subject of general commotion. This was the most glorious killing of the time; his

shot had struck not one, but thousands, and there was a pleasing fear in seeing them wince under the infliction of his chastisement. Scores of friends visited him in prison; he was their champion, and they were rallying nobly to his defence; everything that money could buy was at his service; on the whole he was well satisfied with his quarters. But should his victim die—ah, there was the danger! In that event his friends might not be able to protect him, and he might be torn in pieces by this infuriated rabble. The fact is, although Casey did not know, could not know, the extent of the terrible and determined preparation then being made in secret for his punishment, he did not feel comfortable as he lay in jail reading of the doings on his behalf of his fellow-citizens. And now to him the shadow of the vigilant army athwart his prison walls was as unwelcome a visitation as was the shade of his mistress Dido to pious Æneas in hell. Take it altogether, he wished he had not killed King.

On this still Sabbath morning, with its flood of golden sunlight freshened by the soft airs of ocean, when one would think that even a murderer might find momentary repose but for the thought of having blotted so fair a sight from the eyes of a fellow-mortal, Casey had felt the approach of his marshalled enemies, though at first he could not see them. There was a closeness in the atmosphere closer than that caused by prison walls; there was a darkness in the universe darker than that of his prison cell. As his companions recited to him the scene of the gathering, as they permitted him to look out upon the angry, human clouds that darkened all that vicinity, he did not hear and see so much as feel their soul-stifling presence. Reading that which he most feared in the face of the sheriff, who now approached him with the vigilant order for the prisoner's delivery in his hand, Casey, terror-stricken and overcome, threw up his hands and cried:

"What! are you going to betray me and give me up?"

"James," said Scannell, "there are three thousand armed men coming for you, and I have not thirty supporters about the jail."

"Not thirty!" replied Casey; "then do not peril life for me. I will go with them. And yet I will not!" he exclaimed, starting up and drawing a long knife which he had kept concealed; "I will never be taken from this place alive! Where are all you brave fellows who were going to see me through this affair so safely?"

When the war committee, from their point of observation, saw their plans so perfectly completed, saw their forces standing invincible around the jail, saw their cannon planted before the door, and the lighted match, and saw the marshal deliver their message to the sheriff, they stepped forth, entered their carriages, and drove hastily to the scene of action, the ranks opening for them, and the marshal and his staff saluting them as they approached.

Taking their station in front of the prison, they were immediately surrounded by Olney's guard, who formed a hollow square about them. A deputation of the war committee, with the president at the head, and accompanied by Mr Truett, all under a strong guard, then approached the prison door and demanded admittance. Sheriff Scannell appeared immediately and opened the door to them. They entered, leaving their guard at the door.

"We have come for the prisoner Casey," said Coleman. "We ask that he be peaceably delivered us handcuffed at the door immediately."

"Under existing circumstances I shall make no resistance," replied the sheriff; "the prison and its contents are yours."

"We want only the man Casey at present," exclaimed Truett pointedly. "For the safety of all the rest we shall hold you strictly accountable."

The sheriff then proceeded to the prisoner's cell and informed him of the demand. Casey agreed to go, but peremptorily refused to be handcuffed. He moreover submitted the following proposition in writing, which he requested Scannell to deliver:

"*To the Vigilant Committee:—*

"GENTLEMEN: I am willing to go before you if you will let me speak but ten minutes. I do not wish to have the blood of any man upon my head.

"J. P. CASEY."

Evidently Casey feared immediate execution as at the hands of a mob.

Meanwhile Deputy Harrison had made an effort to induce the prisoner to acquiesce in their demands, but he only flourished his knife the more excitedly, and swore he would plunge it into his heart sooner than submit. Marshal North then came forward and said that Casey had promised him that if two respectable citizens would give him assurance of gentlemanly treatment, that he should not be dragged through the streets like a dog, that he should have a fair trial, and be allowed to summon witnesses, he would quietly yield to their wishes; otherwise he might as well die then and there.

"Show us the prisoner," demanded Coleman. North led the way to Casey's cell. His manner was still greatly excited; his eye was wild, and the long sharp dagger he still flourished in his hand. Coleman fastened his deep clear eyes upon him, and regarding him steadily, sharply for some time, finally spoke: "Lay down that knife." Casey, the poor hunted criminal, saw in that eye the master, and he obeyed. "All your requests are granted," Coleman now assured Casey; then turning to North he said, "Open the cell door and bring him out." Coleman and Truett then returned to the jail door. Presently Marshal North appeared with the prisoner, and delivered him to the deputation. He was not ironed, the Committee having waived that demand; and they supposed him

unarmed, but at that moment he had another dagger concealed in his boot.

As the president and Mr Truett, with their associates of the war committee, emerged from the prison door with Casey in their midst, and began slowly to descend the steps of the embankment, a burst of grateful relief rose to the lips of the vast multitude surrounding the vigilant forces; rose timidly at first, for round the prison all was silent as death, and began to roll up the hill-sides, and quickly would have swelled to their summits, when lo! the president, with hat removed and uplifted hand, beckoned silence, and immediately all was still. Hushed was the half-uttered cheer, and stifled the shout of joy; for after all it was the victory of twenty thousand over one wretched offender. Moreover, this was not revenge, but duty.

It was one of the most touching episodes of the epoch, the quick response to that silent request. Nothing could have better evidenced the warm sympathy of the masses for the association, and the respect for and confidence in the leaders, than this quick obedience to a silent signal made on the very verge of an outburst of exultant applause. Moreover it spoke the innate manliness of those who could so instantaneously see the propriety of thus suppressing demonstrations of joy in the presence of one poor criminal, powerless to resist. Yet none the less real to them and to him was the shadow of retribution cast by that unspoken applause which shut the shivering murderer from the cheering rays of human sympathy. Alas! why should he wish to live, on whom all eyes glared abhorrence!

At the foot of the steps the guard took the prisoner, and leading him to a carriage in waiting placed him within it. At his request Marshal North took a seat by his side, and Mr Coleman and Mr Truett occupied the remaining two seats. Mr Smiley placed himself beside the driver, and Mr Watkins took his station by the carriage door. The guard formed a complete

square round the vehicle, the main body of the vigilant forces followed, and in this manner the prisoner Casey was escorted to the Committee rooms on Sacramento street, and placed in a small cell which had been hastily constructed on the east side of the large room. A knife and his papers were taken from him.

Before leaving the jail the war committee had notified the sheriff that in one hour they should in like manner require at his hands the person of Charles Cora, warning him meanwhile that no person other than the sheriff or his deputies should be allowed to pass the prison door. About half the vigilant force had remained on the ground to guard the jail, while the remainder served as escort of the first criminal to the Committee rooms.

The marshal and war committee had been directed by the executive committee to accept possession of the jail in the name of the Committee of Vigilance. The war committee now concluded to leave the jail in possession of the sheriff upon his surrendering the person of Charles Cora.

In accordance with the notification given the sheriff, at the expiration of the hour named the war committee again appeared at the jail door and demanded that Charles Cora should be brought them. The sheriff now hesitated, and requested thirty minutes in which to consider the matter. These were granted him, but he still declined passing out any more prisoners, saying that as they possessed the power they might take the whole jail if they desired. The Committee assured the sheriff that he was the proper custodian of the jail, responsible for the safety of its inmates, and that they had no disposition or intention at that time to interfere with his duties further than in obtaining possession of Cora; but Cora they would have. The sheriff finally complied, and the murderer of Richardson was likewise removed to the Committee rooms.

Lying in jail at this time was one Rodman Backus,

a rough, somewhat respectably connected, who had killed a German at the corner of Stout alley and Washington street because the latter had dared to visit the lady of his affections residing in the alley. He had been tried, found guilty, and sentenced to the state-prison, and the German vigilants insisted that this man likewise should be taken from the prison, as his friends seemed determined to have him released on a technicality. After witnessing the demonstrations of this Sunday, Rodman lost all taste for liberty, and begged retirement at San Quentin. That night he was taken over from the jail to the state-prison in a small boat.

A grand rush of spectators had been made from the jail and its vicinity to the streets round the Committee rooms. It being their constant purpose to allay excitement so far as possible among the people, Mr Dows and Mr Burns were requested by the executive committee to address the people, and to say that it was the intention of the Committee not to be hasty. This information they were requested to convey in as few words as possible. Mr Dows presented himself at the window and informed the people that no execution would take place that day.

"Where are Cora and Backus?" asked one.

"The Committee hold possession of the jail, and all the prisoners are safe," was the reply.

Apparently satisfied, the crowd slowly dispersed.

Three hundred men were retained at the Committee rooms as guard for the night; the work of the day being now accomplished, the remainder were permitted to disperse. One by one the several companies filed off to their respective rooms, some of them marching down to the water to discharge their arms and returning to leave them freshly loaded. A guard of one hundred also watched the jail that night.

CHAPTER XI.

FURTHER OUTWARD MANIFESTATIONS.

Lookers on many times see more than gamesters.
Bacon.

I HAVE said that there were several standpoints from which to view this movement, notably two which present to us its inner and its outward phases. Following affairs chronologically, let us examine the matter in the present chapter from yet a new point of observation, our outward view of this social sea, white foaming in its mad unrest.

James King of William was shot on Wednesday, May 14th. Next day the following printed address, over the signature 'Brutus,' placarded throughout the city acted as fuel to the flame:

"Emergency of the moment! To the people! Friends and fellow-citizens, lend me your ears! The time was when in San Francisco many among us, law-abiding men, regretted the acts of the Vigilance Committee, and were willing to hope that if the law of the land had been duly supported the guilty would have met with their deserts. Since then experience has convinced us that the law is here a mockery; that the weak, the poor, the stranger, may pay his misdeeds by the forfeiture of his liberty or his life; but the rich villain, the powerful gambler, supported by his rich confederates, laughs at the impotence of the law, and stalks through our streets with bowie-knife or revolver to work out his wicked will, conscious of a friend at court who will screen him from his deserts. Patience is a virtue, but there is a point beyond which it degenerates into cowardice. Obedience to the law is the duty of every citizen; but when the law is effete, or its protection becomes tyrannical, resistance becomes the duty of every freeman. Such is the present emergency to our view. Law and its courts are a farce; murder stalks amongst us and must be checked. Then up, friends, and let the majority of the people try the presumed murderer, and then, if he be guilty, execute."

Throughout the day the excitement increased rather than diminished. Most of the daily papers, particu-

larly the religious journals, were in favor of prompt and determined measures. Two or three of them, however, ranged themselves on the side of law and order, and opposed the Vigilance Committee; but public sentiment was not with them, and they never afterward recovered from the effects of their course. The pulpit with few exceptions fully approved the action of the people. The next evening the *Bulletin* appeared with a significant blank column in place of a leader. On every side was heard the cry "Hang the murderer!" A flood of communications poured in upon the *Bulletin*. "My God!" says one, "is it possible that the people of this city are such a craven set of cowards as to suffer this grievous wrong? No, no! Let every man in this city enroll himself at once in this Vigilance Committee, and let us rid the city of these infamous thieves and assassins." "Had Cora been hanged, James King would not have been shot," said another. At Sacramento, Stockton, Marysville, Sonora, Vallejo, and almost every place of importance in the interior, meetings were held and resolutions passed in sympathy with the movement toward arbitrary reform. An offer of a thousand men for the Vigilance Committee was telegraphed from San José. The San Francisco City Guard disbanded, and so escaped the dilemma of being called to take up arms against their fellow-citizens. In fact both battalions of the regular military disbanded and resumed citizens' dress. The first appeal to federal authority was in the application of the mayor to the captain of a revenue-cutter to take Casey on board for safe-keeping, which proposal was declined.

Daily and hourly the excitement increased. Men but lately hesitating and doubtful took up arms; women talked freely of hanging, and children even whetted their fathers' courage by their infantile bravado. Up to the time when King appeared as the champion of honesty and morality, swindlers and assassins had been waxing stronger and stronger. A

series of masterly strokes had placed their minions in office and secured to them the ballot-box, the mercenary press, and every other means of public remonstrance. Almost every office of trust or profit was in their hands, and few editors dared rouse the hostility of so powerful a band of desperadoes by exposing their villainy. Every avenue to political advancement was blocked by them; no nomination could be secured without the payment of money to them, and no election secured until after a division of the spoils had been agreed on. To wipe this poison from society was Mr King's crime.

The beginning of the end had come. Says a vehement writer of the day, "Virtue, insulted beyond endurance, has buckled on her armor. Let every form of vice quail beneath the vengeance of her eye. Gamblers, I tell you that your day has come! Prostitutes, I bid you fly to the mountains and ask them to fall on you! Violators of the right of suffrage, your reign is over! The people are in arms, and woe to the ruffian who draws a weapon, and to the assassin who stabs in the dark!"

Friday, the 16th, a large and enthusiastic meeting sympathizing with the vigilance movement was held at Sacramento, and the excitement is said to have been greater even than in San Francisco. The French citizens of San Francisco passed resolutions supporting the Vigilance Committee.

Saturday, the 17th, a meeting of the law party was held in the fourth district court room, about one hundred, mostly lawyers, being present. The officers commanding the volunteer militia made a requisition on Sacramento for arms and ammunition, to be used, if necessary, in maintaining the peace of the city, which were supplied by Quartermaster Kibbe. Captain William T. Sherman was appointed general of this division and placed in command of all the military forces in San Francisco. The military were every moment edging round to the side of vigilance; the

mounted battalion all declined to act in support of law, and most of the other companies were by this time disbanded. The governor was telegraphed for; and there were delegations from a dozen interior towns sent to express their sympathy and offer their assistance. News was now received of large and enthusiastic meetings, commendatory of the Committee, still farther back in the interior, at Columbia, Shaw Flat, and all along the foothills, as well as at San José and down the coast.

Vagabonds and scoundrels presented themselves for admission as members of the Vigilance Committee in common with good citizens; it was an old trick of theirs; to be within the fold during such troublous times was the safest place for the suspected; but these when recognized were carefully excluded. The same day the city began to vomit its human offal; many suspicious characters, not liking the aspect of affairs, left that night by the Sacramento boat. Some of the courts adjourned, others continued uninterruptedly. Some of the judges left town; all kinds of business were affected by the excitement, and many persons were thrown out of employment. All who had anything upon their minds at this time went into the country; numbers found White Sulphur Springs a pleasant place of resort.

The advocates of law and order called the movement a revolution, and likened it to the bloody communism of Paris; yet again and again did they wonder and remark on the solemn stillness which prevailed, the moderate determination of the masses, so different from the loud huzzas, the noisy marching, and the *Marseillaise* singing of the French. Petulantly certain San Francisco officials refused to discharge their duties, the excuse being that the Committee wielded the superior power, and as the people seemed to desire that kind of rule, why, let them have it. The vacillations of the weak-minded governor, the bull-dog bloodthirstiness of his general, and the innate selfishness

of office-holders roused antagonisms which threatened serious evil. With all their boasted capabilities, the men of law needed a leader. Either they should have arisen and struck their blow promptly and powerfully, or they should have remained quiet. A *quasi* opposition, in which their own dignity and the dignity of the law might have been sustained, would have been more respectable, more creditable to them than real but puerile antagonism.

Confidence in the almighty power of forms and ceremonies led many to trust in law, never doubting that the mob would shortly be scattered. But when they saw, in addition to other bad omens, the Saturday morning after the shooting, the *posse comitatus* called by the sheriff for the protection of the jail, refuse to serve, the faith of many began to waver. That same day five dray-loads of muskets with ammunition passed into the armory of the Vigilance Committee. Until a late hour that night the people lingered about the Committee rooms, but of what was going on within they knew nothing. About half-past ten that night bodies of men in single file, bearing muskets, marched up Sacramento street in the direction of the jail. At midnight a dense fog settled on the city. Upon the roof of the building indistinct forms stalked to and fro in the misty moonlight, but the streets about the prison were deserted. The events of Sunday wrought a complete revolution both in fact and in feeling. The vigilants were masters of the government; right and morality were dominant, vice was disarmed. The law was dumfounded; it hardly knew where it belonged—with the virtuous, who disregarded it, or with the vicious, who nursed it.

On Monday, the 19th, the court rooms as a rule were empty. The limbs of the law were rheumatic. General attention was directed toward the Committee rooms on Sacramento street, but the day passed quietly and without the anticipated demonstration. Were a foreign foe entering the Golden Gate, prepara-

tions on the part of the merchants and mechanics for defence could not have been more thorough. Bands of armed vigilants paraded the streets, pickets were placed, and mounted patrols served day and night. Ammunition and gun shops were watched, and the general sale of weapons prohibited. In the evening it stormed; but the rain seemed in no wise to dampen the enthusiasm, which was fast becoming morbid. All day and half the night crowds waited about to see what would be done. At eight o'clock several vigilant companies were marched in good order to headquarters, where duties were assigned them for the night, and the relieved companies were permitted to return to their homes. The cannon of the California Guard was brought from the jail.

Early in the morning of Tuesday, the 20th, the streets for two blocks round the Committee rooms are packed with expectant humanity watching the development of events. At nine o'clock four or five companies are abroad in different parts of the city making arrests. An hour later companies composing the night guard are marched out of the Committee building, the relief guard taking their place. At ten o'clock it begins to rain. Nature, in sympathy with the occasion, spreads a pall of murky clouds over the bereaved city, and wrings out tears of sorrow over its martyred patriot, who even now is breathing his last. Crowds of idlers fill the thoroughfares, and knots of earnest talkers stand on every street-corner. Of one of the classes then in San Francisco living by the law, William H. Rhodes, over the *nom de plume* of 'Caxton,' writing in the *Bulletin* of May 19th, says:

"They stand all day at the street-corners flourishing whalebone canes and twirling greasy mustachios. At night they flock to the gambling hells abounding in all our thoroughfares, where they feast and carouse, bet and blackguard, damn their own souls, and take the name of God in vain. Or else, flushed with the pillage of some poor miner or despairing clerk, elated with wine and lust, they throng the houses of prostitution, and there, in the presence of male and female comrades in crime, rehearse the downfall of their last victim, plot the ruin of others, and gloat in hellish triumph over the desolation they have made."

Since the Vigilance Committee of 1851, which was the last open war between the two great contending classes, there had been continual battling in secret. Now hostilities had again broken out, and one or the other must yield. The people were determined that victory should not be upon the side of vice.

In a slightly exaggerated strain of not unmerited praise, 'Caxton' continues:

"Previous to the advent of Mr King as the editor of the *Evening Bulletin*, the thievin fraternity for many years had been in the ascendant in this city. By a series of masterly movements they had secured every avenue of public remonstrance and reprehension. The ballot-boxes were theirs, for their minions filled all the offices of trust and profit in the county, and thus laid the basis of the perpetuation of their power. The press also was theirs, for no editor dared to expose their villainy and array against himself the deadly hostility of the worst desperadoes the world ever saw. A few spasmodic efforts were occasionally made to throw off the incubus, but being seconded by no corresponding movement in the public mind, were almost immediately abandoned. The social circle was theirs, for they mingled openly and familiarly with candidates for the highest state and federal offices, and were hail fellow with mayors, marshals, aldermen, senators, sheriffs, and judges of the supreme court. The political arena was theirs, for, courted by all parties, they enslaved the leaders of all. No man could get a nomination without a bribe; no candidate could secure his election without taking from their ranks a partner in the plunder. The field of personal combat was also theirs, for they were men of blood by nature, boxers by science, crack shots with the revolver and rifle, and adepts in the art of stabbing and assassination. Thus fortified by the most powerful influences of society, they went on from year to year, gathering strength as they gathered public plunder, growing bolder as they grew more burdensome, aspiring higher as their ambition was achieved, until during the past year the theatres were filled with their mistresses, the public offices reeked with their toadies, and the streets were stained with the blood of their victims. The consequences of this dreadful scourge were soon felt in all the business relations of life. Public confidence was shaken, public honor suspected. Many of our best and worthiest citizens sacrificed their property and sent their families to the east. No man felt secure for a moment in the possession of life, property, or reputation. At this juncture Mr King started the *Bulletin*. At first he was scoffed at as a madman, then pitied as an enthusiast, then respected for his courage, then applauded for his independence, then beloved for his purity, his self-sacrifice, and his noble magnanimity. Finally, by a revulsion of public sentiment in his favor, which is without parallel in our history, he stood forth the acknowledged champion of public and private morality, the scourge of villainy, the vindicator of the freedom of the press, the friend of every social reform, and the benefactor of his country.

"San Francisco was not alone in awarding him these distinguished honors.

On the contrary, his chief support came from the interior of the state. Every valley and mountain in California echoed his praise, and the people everywhere welcomed his paper as a fireside friend. That such a man, the first, it might be the last, of his race, should have been assassinated in the streets of the commercial emporium of the state sent a thrill of horror to the heart of every honest man and woman from the sea-shore to the crest of the Sierra Nevada Mountains. Our citizens at first stood aghast with terror. But it was only for a moment. The reaction soon came on, and with it started into being one of those resistless impulses of the human heart which overthrows dynasties and effects revolutions as easily as an ocean wave dashes a yawl upon the rocks."

At half-past one on Thursday Mr King's condition was pronounced by his physicians to have improved, and hopes were entertained of his recovery. At two o'clock Friday graver doubts as to the result were expressed. His state was then considered critical. At two o'clock on Saturday his condition was said to be gradually improving, and he was comparatively comfortable. Monday, though more restless and less comfortable, his real condition appeared unchanged. During these days of suspense the carriers of the *Bulletin* often found ladies waiting at the door to see them, to inquire after the state of the editor's health. Said one Amazonian matron, "What is to be done with that villain Casey? If the men don't hang him the women will!"

At half-past one on Tuesday, the 20th of May, James King of William died. Then was the doom of felons sealed. The sad intelligence rapidly spread, and soon the streets were filled with sorrowful faces. The bells tolled, crowds assembled around the Committee rooms, expecting every moment to see the murderer brought forth to meet his just doom. All places of business and resort were closed; flags floated at half-mast, and public and private buildings were draped in mourning. Stretched from the *Bulletin* office to Montgomery block was a funereal device of the Howard Fire Company, bearing the inscription, "The great, the good is dead; who would not mourn his loss?" Another device, with the motto, "A martyr

to principle; we mourn thy loss," was raised at the corporation yard on Jackson street. On the arm of almost every man that walked the street was the badge of mourning. Never before had there been such a demonstration in the city.

Tidings of his death reached distant parts of the state sooner than distant parts of the city; bells, in measured sounds, like echoes from the bells beside the sea, announced the sad event in all the cities of the plains. Gloom like a black cloud settled upon the Great Valley of California; business was generally suspended, the people of the cities came together in solemn assembly, and the lusty miners in the mountain towns bristled in anger as the telegraph told them of the result of the dastardly deed. "We ask the people of San Francisco to act," said Coloma to the Vigilance Committee; "if you need help, let the sea speak to the mountains." The principal houses of Nevada, Grass Valley, and Auburn were draped in mourning. Sacramento, Stockton, Marysville, Oakland, Sonora, and other large towns performed the solemn obsequies simultaneously with those of San Francisco. That the people at large might have an opportunity of testifying in a substantial manner their approbation of Mr King's character, books were opened at different points throughout the state for one-dollar subscriptions to what was called the King testimonial, an offering to the family of the deceased.

At half-past three o'clock on Wednesday, the 21st, the Sacramento merchants held a meeting, and after passing resolutions commendatory and consolatory, appointed two committees, one of six to receive spontaneous offerings for the benefit of the widow and children, and one of fifty to carry to San Francisco the sympathy of her sister city and to attend the obsequies of the honored dead. The Sacramento theatre devoted its receipts of Friday night to the benefit of Mr King's family.

The following letter speaks for itself:

"SACRAMENTO, May 25, 1856.

"*Mr W. T. Coleman:*—

"SIR: There was a meeting of some forty to fifty of our citizens last evening to take into consideration the propriety of forming a vigilance committee in our city, and it was thought advisable to organize; there was a committee of seven appointed, of which the undersigned was one. The business of said committee was to obtain a copy of the articles by which the San Francisco Committee are governed, and if a copy of your by-laws, etc., could not be obtained, then the business of said committee was to draft a set to be submitted at our next meeting; but as I understand that your present organization is the same one that was forced into existence in 1852, and I think with your three years' experience that your by-laws, etc., must be much more perfect than any that we could hope to draft at this time, my object in writing to you is to know if we send a committee to your city whether said committee could obtain a copy of your by-laws and all of the articles by which you are governed—that is, as far as would be applicable to us in Sacramento. Please answer by return express. Yours truly,

"C. P. HUNTINGTON."

Five thousand men gathered at Sonora one night early in June to demonstrate their sentiments in favor of vigilance. There were processions, consisting of hundreds, each from Shaw Flat, Jamestown, Brown, Kincaid, and Campbell flats. A series of spirited resolutions concluded with the following:

"*Resolved*, That although the citizens of San Francisco have repeatedly rejected all offers of assistance from the mountains, yet if the rowdies will go down to assist the military, we shall consider it our privilege to send enough men to whip them out."

Says the Nevada *Journal* upon the subject: "The feeling evinced in Sonora finds a full response in this county. Public meetings have been held in various parts of the county, in favor of the Committee, while not once have the opponents of that organization ventured to show their hand. Some muttering about street-corners, and wise head-shaking by the few who sympathize with ballot-box stuffing, and bowie-knife arguments are the sum of counteraction. The *Democrat* feebly hints dissent, but has neither the moral courage nor honesty to follow in the track of the *State Journal*. We know no better indication of

public opinion than this mute acquiescence of our time-serving neighbor."

Then dark insinuations were thrown out through the medium of the *Herald's* columns by the roughs and friends of Casey that, should harm befall him, the city would suffer for it. This was the month of May, they said—May, with its gloomy reminiscences, the month of fires, with their attendant pillagings. The hard times throughout the country had driven to the city hundreds of desperadoes only too ready to profit by general disaster and anarchy. Therefore beware, citizens of San Francisco! To your homes, and leave the affairs of the municipality and the avenging of her wrongs to the advocates of law and order, to impotent judges, wriggling lawyers, ballot-box stuffers, and prize-fighters.

"Were it not better," says one, writing in the *Herald* the 17th, "that these criminals should escape justice entirely than that the blood of many innocent persons should pay their death? A mob must be resisted. There are persons whose duty it is to resist it, and it cannot be expected that they will desert their posts. The consequence will be that many lives will be lost, whatever may be the success of the mob." What a doctrine was here! Murderers were abroad, the ballot-box was subverted, wicked men sat in judgment upon their accomplices, the very life of social order and good government was in danger, and anarchy was threatened. Hirelings were appointed to defend the skeleton of justice, through whose wickedness or imbecility criminals escaped; and when in self-defence society strikes a blow in aid of justice, this man of peace cries out, "Beware! don't touch the assassin with his bloody knife, or some of you will be hurt!" Nay, I say, where such principles are at stake, better perish half the good citizens of San Francisco than let one murderer escape. And so thought the men of vigilance.

CHAPTER XII.

THE PERILS OF JOURNALISM.

Tout faiseur de journaux doit tribut au Malin.
Fontenelle.

To be right, and know it, is dangerous. Few can afford to be reformers. The world of opinion, aside from the alphabet of morals, is as apt to be on the wrong side as on the right side of a question. A public journal cannot be a reformer. As the mouth-piece of a sect or school it can but speak the opinions of its sustainers. If it sets up a morality of its own, its readers drop it; if it attempts to run without pretence to morality, that is to say without cant and hypocrisy, its readers drop it. Every journal boasts its independence, yet no journal is independent. There is no such thing, speaking broadly, as freedom of the press, any more than there is freedom of the pulpit. The press and the pulpit must speak to a class, and must tell them only that which they wish to be told. And of all things on earth, the people like to be humbugged. King of William's paper was the mouth-piece of a class longing to express its sentiments; otherwise it would not have lived a week. Of all servile, cowardly things, a bombastic, braggadocio, independent newspaper is the most servile and cowardly. It dare not think a thought nor breathe a word but as the reflection and echo of its supporters.

From first to last the proceedings of the law and order leaders were based upon a hypocritical pretence of reverence for law, or rather for the forms of law.

Now it was notorious that of all men in the community these were in their acts the most lawless. From President Pierce to Yankee Sullivan it was notorious that those whose cries of 'Great is the law with its time-honored protecting technicalities!' rose alike from legislative halls, court-houses, and jails; that these, of all others, in their deeds almost daily set law at defiance. The careful reader cannot have failed to observe that the double-dealing president, the imbecile governor, the stabbing supreme judge, the murderous-minded general, as well as the ballot-box stuffer and the ordinary assassin, all went contrary to the law that they pretended so devoutly to worship. In more than one instance in connection with their dealings with the Vigilance Committee little heed was paid to law when it stood in the way of passion, prejudice, or advancement.

But what has become of our organs, our mouthpieces, our exponents of public sentiment, our brains, those who do the thinking for us, those who form for us our opinions and give them us ready-made, our teachers, the daily press? The ranks of the leaders of public opinion seem to be demoralized, broken into helter-skelter scrambles. Men are seen rushing hither and thither and round corners chasing opinions of their own engendering. Stand aside, if you would not be crushed, oh, directors of human progress, manufacturers of general ideas! For one brief moment the people will think for themselves.

The *California Chronicle*, a daily morning paper edited by two of California's most able journalists, Frank Soulé and W. L. Newhall, was at this time in the height of prosperity, and second only in strength and ability to the *Herald*. But the pistol-shot of Casey struck it as with paralysis. It hated King; must it now praise him? It loved law; but it would have killed King itself had it possessed the courage. It loved order and hated law when it looked upon the people; it loved law and hated order when it turned

to King and Casey. It loved and hated everything and everybody; especially it loved itself and hated the *Bulletin*. The people! It would have damned the people, had it dared, while it licked their hand and laid at their feet its most humble and devout services.

About this murder, what was to be done? Mounting the fence, it takes a survey, and sees the surging masses on the one side and lowering law on the other; then lifting its voice the morning after the shooting it cries—nothing; mouthing generalities. Listen:

"What, then, shall we do? Appeal to the courts and see that they do their duty. Let reason and law, nay, make reason and law, vindicate the outraged laws and peace of society. Our courts must protect us, and vindicate at once the character of the community and the violated laws. There must be henceforth no trifling. Offended law must be vindicated. Justice must be satisfied. Murder must be punished. Homicides must cease. Riot and bloodshed must be prevented, or society is at an end, and irremediable havoc and ruin will cover us like a pall."

That is to say, if this shooting is not stopped, some one is likely to be hurt. If society is slaughtered, let slip the dog of war! Twaddle. But stop; this will not do! See the almighty people! They mean something; a thought has struck them, a veritable thought, and the *Chronicle's* subscribers rave and run about the streets like mad. Hence its cock-a-doodle of May 15th, delivered after an unquiet roosting on the fence that night; but perceiving yet darker thunder in the sky next morning, it again lifts its voice, flaps its wings, and hops down upon the side of vigilance.

Listen to the manly and independent journalist now, Friday morning, the 16th. How lovely!

"The condition of things has changed. Our best citizens have come together and organized. The excitement has become a sentiment. They feel that the time has come when murder must cease, when it shall cease; when this community must be purged of its dregs, of the creatures, whoever they are, who have poisoned the fountains of society and made the place as loathsome as a charnel-house. With this sentiment we fully agree. There are men among us for whom we have no use. They are a curse, a leprosy. There is no use for the gambler, except to drive him out of the city. There is no use for the murderer, except to hang him. If the courts will do nothing, what are the rights of the people? When all other means of redress fail, have not they,

who are the source of all power, who are all power, the right to arise and vindicate violated and outraged humanity? Most certainly. The right of revolution is theirs, the right of defending themselves and each other, the right to weed out the villains of whatever kind who league together to cheat, to rob, and to murder. For seven years our streets have been turned into slaughter-pens. For seven years, almost without exception, the courts have stood as protectors of murderers, cheating justice by their shams, and turning the offender loose upon society with an endorsement of innocence, while the whole community knew the endorsement to be a lie. They have punished miserable thieves with despatch, but rich robbers, moneyed murderers, and successful gamblers have gone free. What punishment has been inflicted for any of the murders of the past seven years? Only two men have suffered, and they because they had no money and no friends. One or two others have been found guilty. The poor German, Oldman, killed like a dog, is in his grave. How the lawyers and the courts tried to save his slayer! It was only because Judge Hager was on the bench that he was not set free on a quibble the second time. Dr Baldwin, an old man, was shot in the back, and his murderer was cleared and sent out upon society as if he had done a good deed. Twitchell was murdered because he stepped over an imaginary line, and a farce in the form of a trial set his murderer free. Richardson's murder is still unavenged; so is that of many other of our slaughtered citizens. What use have we for the thieves, vagabonds, and murderers who infest the city and make it hideous? In the gambler's hell, in the strumpet's den, murderous deeds have been concocted; in the city's streets, in the marts of business, in the dark alley, in the highways and in the by-ways, life has been taken; in the courts perjured jurors have acquitted the criminals, and judges have justified assaults with intent to kill, if not murder itself; and if by chance one is convicted, immediately the jury recommends him to mercy, and the supreme court grants him a new trial. Who need wonder that public patience is at length exhausted? Who wonders that a vast portion of our people, our best men, our merchants, our mechanics, honest, honorable, quiet men, have at length banded together with a stern determination of cleansing this Augean stable? They have a right to do it, and they ought to do it."

Converted! but too late—the *Alta* has the auctioneers' advertisements. Waver not, leader of public opinion! Judge instantly which way the herd headeth; then quick to the front and cry them on, if you would not be trampled under-foot.

Says McGowan in his narrative: "The evening before the rencounter of King and Casey I was in Barry and Patten's drinking-saloon, on Montgomery street, in company with J. C. Cremony, Esq., of the San Francisco *Sun*, and Mr Casey. While we were drinking at the bar we were joined by Frank Soulé,

Esq., of the *Chronicle*, and another gentleman, also, I think, connected with that press. The subject of conversation when they joined us was the braggadocio and threats of the King family, and the white feather shown by Tom in the *Caliban* matter that morning, Mr Soulé stated that he had been persecuted by James King of William, and had even gone so far as to procure a double-barrelled shot-gun for the purpose of killing him, and that nothing but the entreaties of his partner had prevented him from doing so. The evening of the shooting of King, Mr Soulé called upon Casey in the county jail, and taking him by both hands shook them heartily, saying that the people would thank him for what he had done."

Take this statement for what it is worth; pass the *Chronicle's* purgatorial day, the 15th, and read the following from the issue of the 21st: "James King of William is no more! Another victim of the bloody code lies still forever. One martyr more for liberty has paid his penalty for speaking what he thought. What threats could not effect, bribes failed to accomplish, the pistol has done, assassination has finished. The bold denouncer of wrong, the fearless antagonist of crime, the brave citizen who risked life and reputation, happiness and home, in the herculean task of tearing the mask from vice and laying villainy open to the view, lies in his bloody shroud, because he felt it his duty to expose evil and possessed the daring to do it." And so on. And how beautiful it is! How sincere! This man performs his unwelcome task like one hired to mourn an enemy's loss. And the stupid people sit and swallow it, because they like the taste of it.

The *Town Talk* turns upon a rustier pivot. At first it is prompt and pronounced for law and order, and several days of veering elapse before it points squarely to the side of the people. The next morning after the shooting it says: "We do hope and trust that the sober second thought will prevail, and that our city's

fair name may be preserved. Though a great wrong has been committed against society, and a lasting injury inflicted upon our city, let the law have its course and punish this offence." The next day, the 16th, the editor's mind seemed somewhat perplexed. "The people have the power in their own hands," he says, "and can demand that justice be done in the matter, or that that failing, mete it out themselves. Whatever is done, let it be done calmly, coolly, and deliberately, without sacrificing the lives of our citizens. To attack the jail would be to throw away many valuable lives, as its ramparts bristle with bayonets. Rather let the law punish, and the committee of the public see that the law is faithfully executed." The morning before Mr King's death it appears impressed by the imposing appearance of the three thousand under arms. It dwells on the "sublime sight of a whole community rising up in the majesty of their power and demanding the surrender of authority delegated to their servants, who have proved unworthy of the trust," and concludes by saying that "it is to be hoped that the city and county officers will resign, and not continue in office after the sceptre of power has departed, and confidence in them has been lost." The morning after Mr King's death the editor is too affected to speak. "This is not the time to write his eulogy; the hour is burdened with grief, and the heart too sad for the task." Revived, the 24th he strikes out in a vehement defence of the Committee. Alluding to the 'reign of terror,' as the law and order advocates characterized the rule of the Vigilance Committee, he remarks: "We adopt the term in the only sense in which it is true, the reign of terror to the rogues in the city. And long may that reign of terror continue which has driven the ballot-box stuffers and the election bullies to their hiding-places; that secures the honest man the right to vote, and enjoy the property in peace which he has acquired by honest industry; that secures the virtuous wives and daughters of our people from the contamination

of the brazen courtesan in the public streets; and long may that terror reign which secures the honest man his rights as a citizen, and drives the gambler and his satellites to their hells, more gloomy than hades itself. To those who have lived in every violation of God and man, to those who have fleeced the unwary and thoughtless in the gambling hells, to those who have fattened on the spoils of office illegally obtained, to those who never earned a dollar by honest toil, but roll through our streets in pomp and luxury on the means filched from our people, to all such this is indeed a reign of terror. God grant that the lesson may continue until every rogue in the land shall flee our city; then the fruits of the recent revolution will be seen, and this reign of terror will be complete. Business will be resumed; the mechanic will return to his labor with renewed energy, feeling that there is still security for person and property in California. But who feels the present government to be a reign of terror? Does the merchant, whose business has been suspended for a whole week, and whose money has been freely contributed to support it? Does the honest mechanic, who has laid aside his tools and shouldered the musket to sustain it? Do these gallant men who have sacrificed their ease and comfort, and endured the dangers and privations of a soldier? Do good and just men everywhere regard it as a reign of terror? We answer emphatically, No. They know it is the only salvation of the noble city they have toiled to build up. They yield the government not mere tacit obedience, but are willing to peril life and property to sustain it. The city was never more orderly than at the present time. Approach one of the court-rooms, and it is like some banquet-hall deserted. The officers are lounging about idly from old associations, not that they have any business to do; those eloquent harangues that we were wont to hear in that vicinity have 'dried up,' and your footstep sends back a hollow sound, and the echo reverberates through the building

without a response. It looks sad and desolate, and those who have been cut off from the crumbs look dejected and sorrowful indeed. Many will be driven to that last sad alternative—work. It is hard, but this is one of the evils of this reign of terror. May they find consolation in a good appetite."

Very well done for one so slow to see so plain a path. The fact is, these journals could not face the ruin which they saw staring them in the face. After all, John Nugent of the *Herald* was the manliest of them all; not in persisting in an erroneous course, but in his consistency. One respects a hearty fighter in a bad cause more than a renegade.

"If asked whether five men or five hundred men," writes the editor of the Sacramento *Union* on the 21st of May, "possessed the right abstractly to hang a man charged with crime without authority of law, and without his having been convicted according to the rules of evidence which obtain in our courts, we should answer in the negative. But the action of the people of San Francisco during the late fearful excitement, caused by the shooting of Mr King, is as unlike the proceedings of a mob as some legal farces of trying men for murder which have been enacted in that city are unlike legal proceedings in courts where law is administered with an impartial hand, and where all the officers of court take a pride in discharging their duties faithfully and fearlessly."

"When are these things to end?" asks the *Alta* the morning after the shooting. "How long is San Francisco to be cursed with the enactment of such scenes as that of yesterday? How long are people in the Atlantic States to be deterred from coming here by the fact that human life is held here at so light a value? How long is the death-dealing pistol to be the arbiter of differences between man and man here? These are questions which must be seriously considered; and it is time they were answered, and answered emphatically. Through all the excitement of

yesterday there was a deep and earnest feeling prevailing among all good citizens, a determined expression that it was time to act and do something to redeem the blood-stained character of our city, to save it from the reputation of being another golgotha."

For these and like brave words the *Alta* was rewarded by the patronage of the associated auctioneers, which it retained for twenty-five years, and yet retains at this writing, and whose united advertisements, more than once, have been the means of saving that journal from bankruptcy.

The evening press, having had more time in which to consider matters and arrive at conclusions, exhibits the tone of public opinion more evenly than the morning papers. Says the *Journal:* "It was known to many before the fatal moment that it was about to happen, and it was spoken of as a thing certain to be accomplished; and the fervent hope and prayer of our citizens is that these parties shall be ferreted out, that the seal of public condemnation shall be placed upon them, and the majesty of the law visited upon them in its greatest force and extent. All pimps and street-brawlers who parade our thoroughfares armed with revolvers, derringers, knives, and bludgeons, these people must be banished from every post of official trust and power. And if the citizens do not now firmly resolve to give no rest to the matter from this time forth until its accomplishment, then we are lost, and our city will become a prey to gamblers, debauchees, and a gang of political hell-hounds that know no law but passion, and recognize no arbiter but the assassin's knife and deadly revolver. Shall we yield this fair city a prey to such men and such influences, or shall we, like men who can justly value the rights we have been taught to enjoy, band together and by a united impulse and a persevering, untiring vigilance, reclaim our city from this detestable class, and inaugurate the era of justice and the rights of the people?"

And the *News:* "We have watched our young state almost from its infancy, and have witnessed all the disorders and crimes incident to a new and disorganized society, yet we are free to confess that no event has filled us with greater horror or detestation. Robbery, arson, and murder, it is true, have been recorded, and even the assassin has dared to lift his arm in an unfrequented street, but never before has an assassin audaciously performed his dastardly work in the light of day, amid a crowd of witnesses, and at the risk of increasing the number of his victims from among our most peaceable and best citizens. Our society, instead of advancing seems to have retrograded. In years past, robberies were sufficient to consign the culprit to the gallows. We have now proceeded from robbery to murder, from murder to assassination. We are aware the criminals in our midst form a very small proportion of our population, yet our whole people are held by the civilized world as responsible for their deeds. We are no advocates of vigilance committees or lynch law. The remedies which they afford for existing evils are perhaps as bad as the evils which they propose to eradicate. But it is impossible that things should remain as they are. A change must be effected; our very existence depends upon it."

The religious journals were the most pugnacious and lawless of all. Thus the *Pacific:* "The only question is, what is the duty of our citizens? A meeting of the Vigilance Committee has been summoned to meet at nine o'clock this morning. Shall the Committee reorganize and reassert justice once more in our midst? If the people have reasonable ground of confidence that justice can now be secured, not only in this case, but generally, in our courts, the duty is then plain to leave the case there. To leave it. The mere exhortation to secure the action of the courts, the exhortation of the courts to fidelity, is of no account whatever. But if there is no chance of justice;

if criminals are certain to go free; if gamblers, and prison-birds, and blacklegs yet control the forms of law; if, while James King lies in his gore, James Casey, guarded by friends in prison, can mock at justice and laugh at public indignation—then let the strength of the people be felt once more, inspiring fear alike among the black-hearted criminals and officials equally corrupt. If no justice be meted out in this case, other victims will yet be demanded. The life of no man is safe who dare utter his true sentiments. If it becomes impossible to convict a man who brutally assaults an editor, his fit associates standing around to prevent relief; if, at Sacramento, a judge of the supreme bench will turn aside from his office to attack a citizen for expressing an opinion upon his character; if the murderer of Richardson, purchasing with money the eloquence and influence of the bar, can set justice at defiance; if one of our most useful citizens, to whose fearlessness and truthfulness the community is largely indebted, can be shot down in open day by one who has also a public journal at his command for his own defence, and if there is no chance of convicting him—then we say no man's life is safe, unless we connive at the rule of gamblers and ruffians. It is a serious thing for the people to take the execution of the law from the appointed tribunals, but it is a thousand times more serious that it be not executed at all. In the eye of the law, without possibility of counter-testimony, James P. Casey is a murderer. He ought to be hanged. It is for each man's conscience to say whether he believes that, left to our courts, Casey will be hanged. Believe it who will, we do not."

The *Globe* seems much concerned for the liberty of the press, and asks, if editors cannot call supervisors names, what will become of us? The German *Journal*, *Wide West*, *Golden Era*, *Mail*, *L'Echo du Pacifique*, *Le Phare*, *Le Patriote*, come out in about the same strain of condemnation of the deed, and sym-

pathy for the wounded editor's family. Says the German *Democrat*: "To us it is a matter of indifference whether Casey will be hanged or not, because if Casey is hanged, there are ten others like him; and to call a vigilance committee for this purpose only is of no use. What we do desire is an entire annihilation of the criminals and gamblers, removal of the same class from office, reëstablishment of the elective franchise, and guaranty of the freedom of the press. As long as we let these scoundrels remain here, things will not be better. A vigilance committee must not only hang Casey, but must also clear out our city of his like."

For a long time after the uprising, the *Bulletin* continued ungenerously to kick the dead bodies of its enemies. It spoke slurringly of those who took charge of the remains of the departed unfortunates, and stigmatized those who followed them to their graves. Under the editorship of Thomas King, who succeeded his brother, it rapidly degenerated, and was kept alive more by public sympathy than by personal merit. The issue of May 28th leads off in a puerile imitation of the original editor, as like his as the braying of an ass is like the roaring of a lion, in which the brother bellows and brays at judges, officials, and bankers in the silliest of verbiage. The personal abuse upon which the journal had fattened during the *régime* of the original King, under the brother's impotent rule had become a species of intensified, blackguarding hate. He who was not a friend to this newspaper was the enemy of God and man. Here was the touchstone of good citizenship; and here the good citizen's catechism:

Who made you? The *Bulletin.*

Who redeemed you? The *Bulletin.*

To what end were you created? The *Bulletin.*

Do you love, subscribe for, advertise in the *Bulletin;* do you think upon all subjects as Tom King, its editor, thinks? Yes.

Then be you received into the good graces of the *Bulletin;* so long as you remain in the faith, be you severely let alone, be your reputation never slandered and your ruin never attempted.

The career of the *Herald* was somewhat remarkable. Beginning 1st of June 1850, at a time when the mining fever was at its height, it rapidly rose to the first rank in Californian journalism; and I would here again take occasion to remark that neither before nor since has there been a more ably conducted newspaper on the Pacific coast. Its editorials during the first few years of its existence were equal to those of first-class eastern and European journals, and while fully alive to the magnitude of the times, and behind none in energy, its temper was moderate and its judgment sound. One fatal mistake it made—opposition to the Vigilance Committee of 1856, and for this it ultimately paid the penalty of its life. In September 1851 the associated auctioneers and commission merchants of San Francisco, comprising some twenty auction and commission houses, representing the largest business interests of the city, made arrangements to advertise exclusively in its columns, and these arrangements were formally continued from year to year up to the 14th of May 1856.

Then sold this journal its soul to Satan. From that moment the San Francisco *Herald* became the champion of scoundrels. Villains were openly praised and villainy defended. The arrivals and departures of notable rascals were recorded with all their assumed titles, and amidst eulogistic details the most disgusting. Any man who was a filibuster, fenian, democrat, or southerner, might safely claim the protection of this sheet, no matter what his antecedents or his crimes may have been. In this severe statement I believe I do not exaggerate; I believe that I am not governed by prejudice, and that it is only after a careful and candid study of its columns for months that I am led to these conclusions. I knew John

Nugent at the time; years after we were in closer, friendlier relationship. I always admired the man, honoring and respecting him in my heart and in my words. I have had occasion to entertain such sentiments toward some of his successors, but I must confess to but few of them. The vigilance journals of 1856 were in many particulars as bad or worse than their opponents. They were partisan and insincere in many things. Some of them had taken a stand on that side from passion, others from pecuniary interest. But it happened in the main that they were on the side of truth and righteousness, however detestable the character of their editors may have been; but the *Herald* from the moment of its disgrace was filled with black malignant hate, and in its statements scrupled at neither untruthfulness nor immorality, though it did not seem to know it.

Its earlier piety was not unprofitable. It derived its full share of patronage from the first Committee. Among several bills ranging from twenty-five to one hundred dollars is one dated 26th June 1851, for "two hundred extra large posters in English, French, German, and Spanish, thirty dollars." These were notices of meetings and rewards for criminals to be advertised, beside subscriptions and job printing. From the *Herald's* bill of eighty-five dollars, September 1851, thirty-five dollars are deducted "for the good of the cause."

"The position of the San Francisco *Herald*," says the Nevada *Journal* of the 23d of May 1856, "is at present a most unenviable one. It stultifies its whole former course by its present denunciations of the action of the citizens of the city in which it is published, for in former years when the people of that city exercised with less caution and moderation the powers they have recently been compelled to assume, the *Herald* was one of the warmest supporters of the Vigilance Committee, and seemed to be half satiated with vengeance when the people laid down their tem-

porary authority. But since those days it has passed from a pretended friend of the people to be the organ of the very corruptions the people are most called upon to abate—has become the tool of men whose necks would be least safe were a scrutiny sufficiently keen directed upon the movers in many of the dark schemes continually evolved in San Francisco. Truth and justice have not changed, but the *Herald* has shamelessly deserted them; and its present attitude needs no other commentary than its former course in reference to scenes similar to those now transpiring in San Francisco.

It is not a little curious to watch this journal in its death throes. It is said that a well established newspaper dies hard; but seldom is there such a blow struck at such a journal, and with like effect. Though it struggled for several years, and in time resumed its former size, it received its death-blow here; it never regained its prestige, and was finally obliged to succumb. Listen to the editor Saturday morning, May 17th: "There is no denying that the storm has burst upon us in all its fury, but it is just such a storm as we love to breast. We are alone in this fight, and we cannot say that we prefer to be otherwise. In our whole editorial career we have never felt a more thorough conviction of the correctness of our course."

Like the man of clear convictions whose luck it was always to sit upon the jury-bench with eleven fools, this editor assumes well nigh infallibility when he acknowledges himself alone and glories in it; yet possibly there may be more of braggadocio and regret in these remarks than glad courage. I do not know. Then he threatens: "We assure those gentlemen who have joined in this unjust, wanton, and despicable crusade against us that we will make them hide their heads for very shame before we are done with them." So the press may strike, but the people may not. Diminishing the size of the paper was in

my opinion poor policy; unless it hoped by assuming an attitude of persecution to excite sympathy and turn the tide of popularity in its favor, which signally it failed to do. When King of William died two black bars enclosed the notice of his death, and the editor's remarks were sympathetic and respectful. The next day, however, as if to make amends for his passing bow to death, in a two column leader he rants louder than ever against the reign of terror, military despotism, the defiance of the constitution, the overthrow of trial by jury, the surrender of our birthrights into the hands of an oligarchy, and twenty other such straits to which the three thousand bayonets had brought us, and almost attempts to justify the deeds of Cora and Casey. Strange this man of sense should so suddenly have become rabid, insane. Why were not all these able and eloquent arguments thought of five years before, when this same editor was throwing himself and all his journalistic influence upon the side of summary justice?

Compare this with a statement of Mr Nugent's in the columns of the same journal the 27th of January 1855, and bear in mind, meanwhile, that he affirms his sentiments have not changed. "We are called upon this morning to chronicle the hanging of four more criminals, by order of a people's jury. These make ten executed in this state without recourse to the machinery of law, during the past month, one at Volcano, one at Mariposa, one at Iowa Hill, two at Los Angeles, one at Sonora, three on the San Joaquin, and one on Salmon River; and in every instance they richly merited their fate. Had they been left to the slow process of the law, there is not the slightest probability that any of them would have been punished: or if nominally punished, that they would have remained any longer than suited their pleasure in that paradise of cutthroats, the state-prison. Let the murderers and burglars of San Francisco, who seem to have been let loose upon us,

take warning by the fate of their fellows in the interior."

For weeks after the great uprising he beats the air like a man distraught, and in his two or three columns daily sinks into bombastic sophism and verbiage. In vain have I searched his editorials, written with a mind wrought up to its intensest pitch, for one sound argument favorable to quiescent obedience to law under the circumstances. He constantly brings forward the people as having usurped the government, trampled upon the constitution, and violated all the sacred rights of freemen, when no one knows better than he that such was not the wish or intention of the Vigilance Committee. Their only object and their only action was for a moment to assist an imbecile government and put paralyzed law upon its feet. He talks of the sacredness of statutes, constitutions, and legal forms, as Moses would talk of the ten commandments. Angels and ministers of grace! Sacred! How sacred a scene was Ned McGowan passing sentence on a pal! This magistrate, by the way, in common with other noted rowdies, he always mentions most respectfully, most tenderly, as if fearful of hurting the villain's feelings, calling him 'Judge McGowan,' and the 'Honorable Edward McGowan.'

The Committee found it necessary to search certain private rooms suspected of harboring criminals, and although exceedingly guarded in the exercise of this duty, and publicly disclaiming "any intention of availing itself of the power of searching private residences or rooms for the purpose of arresting criminals, without receiving permission from the proprietors of the suspected localities, unless such search is countenanced and aided by the city authorities, under the customary warrants," yet the *Herald's* editor indulges in lengthy tirades against the despotism of domiciliary visits and the violation of the sanctity of households.

The term revolution was often applied to the movement by the law and order party, which unless a

moral revolution was meant was manifestly wrong, for revolution, in its ordinary sense, is a radical change in the political constitution or government of a country. These wilfully blind well knew that it was not the overturning of the government, but of criminals unwhipt by the government, and whom the government claimed the exclusive right to punish and would not, that the Committee of Vigilance sought. There was not a man of them who would soil his fingers with law, government, or punishment, if those elected for that work would perform it. It will not do for a man to be vehemently partisan in politics or religion if he wishes to remain honest.

It was a lofty tone he sometimes assumed. "We are too firmly wedded to principle to think with serious concern of personalities," says the issue of May 29th, which I am uncharitable enough to interpret: "I have taken this step; I regret it exceedingly; I cannot go back, for then I would lose my law and order friends without gaining my former position among the merchants. Then the humiliation of recanting; I would sink the paper first. So I will brave it and make the best of it." There was no principle involved; it was merely a matter of opinion as to whether the law could cope successfully with crime without the untrammelled aid of the people. The principle of the matter this editor determined for himself five years previous when he pursued a directly opposite course; and he repeatedly says that his opinions are the same. "We stand now precisely where we stood then. The only difference is, that we now uphold the laws and their administration, because the safety and well-being of society are involved in their maintenance. Then we justified the resort to extra-legal and extra-constitutional courses because the very existence of society and of our city depended upon such resort. The law of revolution is the law of necessity. When the necessity no longer exists, the right ceases. The necessity did exist in 1851, and it

does not exist in 1856." Clearly, that is to say, the principle of the thing is the same now as it was then; the right to revolutionize when the necessity exists is admitted by this champion of law and order; the necessity did exist, it does not exist now. Three thousand merchants and others, having as much at stake as the editor of the *Herald*, think the necessity does exist now. And this was all the foundation for that war of words, that pugilistic logic and parade of legal lore that for years divided the city into factions. The insignificance of the thing is only equalled by its absurdity.

Hear what Mr Dempster says of Nugent: "The very morning after the assault the proprietor of one of the most influential journals, who had cause for jealous dislike of King, editorially described the assassination as an affray, and earnestly besought the public to refrain from any infraction of the law. This editor had been an active and prominent member of the previous Vigilance Committee, and continued its ardent defender, but now appeared to think the shooting of a rival editor a crime which concerned society less than he had previously regarded the theft of property. He had a courageous combative temperament, and having taken ground against others following the example he had set, sought to create as strong an opinion against the organization of a second as he had excited in favor of the first Vigilance Committee which he had aided in establishing. His efforts had much to do in consolidating the opposition to the second Committee, and inducing the authorities to gather arms and drill militia for the purpose of conquering the traitors; and there would probably have ensued a military conflict with great destruction of life and property, if the overwhelming numbers of the Committee had not awed many adversaries, and the watchfulness and skill of its officers caused the capture of a large portion of the war material which their adversaries were accumulating."

Seldom have I met a man toward whom my sympathy went out as toward Mr Nugent. Small, of light complexion and delicate features, soft and slow of speech, modest and sensitive, yet lion-hearted and intellectually great withal, he deserved a better fate. This one great mistake hovered like a spectre over all his after-life. And though the assertion may seem paradoxical, it is my opinion that this man at this juncture could in no other way have served his country so well as in taking and maintaining the ground he did—that is to say, fighting under the banner of error was, in this instance, likely to prove productive of more beneficial results than fighting under the banner of truth.

The danger lay, not in the hanging of criminals and the ferreting of crime, but in the fostering of a spirit of mob violence and lynch law, fostering in fact the very spirit the Committee sought to crush, that of every man or band of men taking the law into their own hands, and righting their own wrongs, when there existed no necessity for such a course. And in this way Mr Nugent assisted Mr Coleman. Had the advocates of law and order taken this ground only, I should be with them heartily. What I object to is their accusing these patriots, or more than patriots, of wickedness when they should have ranked them among the most righteous. They might bewail the necessity for such a course, the necessity of ignoring for the moment the presence of law, as they would bewail the necessity of the amputation of a limb, but when they saw that putrefaction had set in, and that the whole body politic was in danger, they would praise the surgeon for his cruel kindness. They might even say to him, "Now that you have cut off the diseased limb do not cut off any more;" but to blame him for resorting to the only method possible for curing the disease, to say to him, "How can you so sin against the sacredness of the body, born of God, as to raise your knife against it?" is childish. The fear was that

a sentiment would spring up throughout the state favorable to mobocracy, and the *Herald* did much to check it. It is not always he who shouts loudest for God that does the most good; praise Satan somebody, lest we forget he lives.

CHAPTER XIII.

TRIAL AND EXECUTION OF CASEY AND CORA.

See they suffer death;
But in their deaths remember they are men,
Strain not the laws to make their torture grievous.
Addison.

No sooner were Casey and Cora secure in the vigilant cells than arrangements were made for their trial. The first question to determine was whether there should be selected a jury of twelve, or whether there should be a greater or a lesser number. After some discussion it was finally resolved that the executive committee should act as a court. Counsel were assigned, each making his own selection, and every step being taken to give them a full and impartial trial. The prisoners, both of them, had expected immediate execution if they fell into the hands of the Vigilance Committee. They could hardly credit the promises of their captors made them at the jail; particularly when, on being brought out, they saw the angry thousands. Now they were again assured they should have a trial, that witnesses should appear for and against them, and upon the proofs adduced judgment should be rendered.

Mr Truett had pledged Cora that he should have an impartial trial; that it should not be immediate; that he might see Belle Cora; and that in case of conviction he should be permitted to see friends. The pledges of Mr Truett were ratified and observed by the executive committee. The sergeant-at-arms was instructed to make proper arrangements for the comfort of the prisoners.

Neither attempted to deny the slaughter of his victim, but sought to excuse the act—Cora upon the plea that he had been assured that Richardson was a vindictive man and he feared his own life would be forfeit if he permitted him to live, and Casey on the ground that he had given King time enough to draw and fire if he desired. He acknowledged that he had served a term in the New York prison under sentence for burglary, but said he had determined to prevent the publication of the fact in California. The excuses were at best but excuses, and entitled to little consideration in this connection. Half the world could produce just as good reasons for killing the other half. There was no evidence that Richardson sought Cora's life. If he had he could easily have taken it. Casey's plea even in those days of easy shooting was lame in the extreme, not worthy of notice, and even this was disproved by several witnesses. How easy it would have been to have convinced before a court some one or more jurymen with more conscientiousness than common-sense that Casey killed King in self-defence! How many of King's enemies would gladly have sworn to some movement of the victim's hand, which an intelligent jury summoned under forms of law would have construed into a threatening demonstration which justified Casey in firing first!

Monday, the 19th, the executive committee were in session all day. A notice was posted at the door of their rooms stating that any who desired to assist the Committee in the performance of their duties could do so by enrolling their names at the house of the engine company, on Pine street, and holding themselves subject to the order of the executive committee. Throughout the day members were in session at the several sub-committee rooms where the utmost harmony prevailed.

Casey was permitted to see persons on business matters, but none could approach him nearer than a distance of ten feet, and then only in the presence of

some member of the executive committee. He was also permitted to write to his mother and others, his letters to be entrusted to the executive committee. Archbishop Alemany requested access to him as spiritual adviser, but the Committee decided that such service must be deferred until its necessity was certain.

Encouraged by the unexpected evidences of dispassionate impartiality, the prisoners asked for counsel other than members of the tribunal. "How shall our judges be our advocates?" they asked. But they were firmly informed that no outside counsel, any more than an outside judge, would be tolerated. The tribunal was not after innocent blood. Advocates should not act as judges, but should perform the duty of friend and counsel in all integrity and to the best of their ability.

The Committee claimed that to the lawyers society was indebted for at least half the ills arising from uncaged criminals and maladministration of the laws, and they determined that lawyers should have nothing to do with their trials. What they wanted was justice, not fustian. If that was law, well; if not, so much the worse for the law. And the right they could determine without the aid of learned judge or statute-book. And here let me say that these unsophisticated attorneys entered on their duties in every instance fully resolved to clear their client if it lay in their power; and so fully carried away by their cause were they that in every instance he who defended a criminal, ever afterward asserted a belief in his innocence; and if he cleared him, they were friends for life. The prisoners were moreover informed that they could summon and question any witnesses, and if the trial went against them they could have the benefit of clergy, if they believed in such benefit, and be permitted to see their friends. Shortly after proceedings were begun the following letter was received:

"*To the Executive Committee:—*

"GENTLEMEN: I am credibly informed that James P. Casey and Charles Cora, both clients of mine, are in the custody of the Committee of Vigilance.

Being one of their counsel, I am desirous of seeing whether they wish to hold any communication with me. If so, you will confer a favor by admitting me to an interview with them. Respectfully,

"GEORGE P. JAMES."

Mr James was informed that the prisoners Casey and Cora did not require his services.

A committee of surveillance, consisting of Dempster, Burns, and Jessup, were appointed as guard over the prisoners; and it was ordered that all communications and business connected with the prisoners pass through their hands for inspection and consideration. They alone were to hold intercourse with the prisoners; they were to have access to the records of the committee on evidence, and were empowered to communicate with any persons in this connection with whom they saw fit to do so.

During the trial of a prisoner none were admitted to the executive rooms except the chief of police, the accused, and his witnesses. In all meetings there was full parliamentary usage, and at the trial of a prisoner regular court proceedings. John P. Manrow, who in his narrative to my stenographer explains many points not touched upon by the others, occupied the chair in most of the murder cases. In the trial of Cora he was appointed to prosecute the prisoner, and Mr Coleman presided over the deliberations of the tribunal.

The form and order of trial was then made known to the general committee, and the work proceeded without delay. Every member of the court was sworn to give a verdict fairly and honestly according to the testimony. In these cases, to expedite matters, a committee was appointed to aid the counsel in obtaining testimony, with power to increase their number from the general committee if desired. These appointees proceeded industriously to the work assigned them. A committee on evidence was appointed to collect testimony. The desired witnesses were summoned by the sergeant-at-arms. No one, not even a member of the executive committee, save the

committee of surveillance, was permitted to visit the prisoner Casey—so it was ordered by the Committee on Monday. The members of the executive committee were to render their decision by ballot; it was resolved that a majority could convict, and that the verdict should thereupon be declared unanimous, and so presented to the general committee as a unanimous vote of the executive body. Every member was to put his name to his vote. Before proceeding to trial the tribunal in a body took the following oath: "We hereby pledge our sacred honor to God and to each other, not to divulge the votes taken in our verdicts rendered in the trials of Cora and Casey to any living being outside these rooms. So help us God."

Cora was brought in by the war committee Sunday afternoon. It was then resolved that the trials of Casey and Cora should rest until Tuesday, the 20th, at twelve o'clock. On Monday Cora asked to see Mr Truett, and permission being granted by the executive committee, Mr Truett visited him. He was quiet and courageous; and regarded Mr Truett as his friend. Had he not killed Richardson, he would have been killed by him, he said, and had not Casey shot King he would have had no trouble. Poor Cora! His life was not much to another, but it was everything to him. As the old Scotch woman remarked when she saw the head of the duke of Hamilton rolling from the block, "It was nae great head in itsel, but it was a sair loss to him."

The Committee applied to the physician of Mr King to ascertain if he might with safety give evidence in the trial of Casey. The physician replied that Mr King was not then able to testify. A committee of five was appointed to confer with Mr Casey and obtain from him all possible information concerning his abettors and accomplices in the assassination. The chairman of each committee was permitted to withdraw from the tribunal, and a majority of each committee in session pending the trial was pronounced

competent to transact business. After the beginning of the trial the Executive was to take no recess of more than thirty minutes until the trial should be ended. One member was appointed to ask questions during the trial, and no other person was permitted to interrogate until after the general examination was over; then any one might cross-examine.

At the hour appointed, namely at twelve o'clock on Tuesday, the 20th, Charles Cora was brought before the tribunal. On entering the executive chamber he made his obeisance in a modest manner, and addressing his august judges he begged that the fermentations of the hour might not prejudice his case, and hoped he should have a chance for his life.

He was then invited to select from the members of the Committee one to assist him in defending himself on a charge of murder, for which offence he was now on trial. After a moment's pause he named Mr Truett. Not liking to assume the entire responsibility of the defence, Mr Truett asked that Mr Smiley might assist him, which request was granted. Cora then entered into consultation with his counsel, and soon after the examination of witnesses began. Nearly every witness that appeared at court was brought before the Committee. During the trial, that is to say at about half-past one, the grand marshal appeared and announced the death of James King of William. The marshal was directed to notify the assembled multitude that the trials of Cora and Casey were progressing with proper deliberation.

When Casey was told that King was dead, a deadly pallor overspread his face, and he trembled in every limb. Like Eugene Aram, he feared his murdered victim dead more than living. That announcement was the sounding of Casey's death-knell. Whatever hope he may have entertained before, he had none now. In the hands of his judges it was a simple, alas! for him, too simple, proposition; Casey killed King; Casey must die. Friends should nothing avail;

money should avail nothing. There was here no opportunity for bribing judges, for packing juries, for appeals, and new trials. Casey had reckoned without his host. He had thought, and so his friends had assured him, that he would never be hanged for the killing. King had too many enemies at court; he had exposed too much villainy for serious harm ever to come to his exterminator. There would, of course, be an arrest, a trial, possibly a conviction of manslaughter, but indeed there was no danger of serious results. How different the reality! The moment he heard of King's death, the matter seemed so serious to him that he immediately sent for his man of business, arranged his earthly affairs, ate and slept but little, paced the floor, and held long and earnest converse with his ghostly advisers. Let us hope that they did him much good, lending him wings by which to waft his spotless soul to heaven.

The testimony in Cora's case was closed; the counsel on both sides addressed the tribunal; the sergeant-at-arms was then directed to remove the prisoner. As he was about to go, the poor fellow hesitated, turned to the dread inquisitors on whose will his destiny hung, thanked them for the attention they had given his case, and the consideration he and his witnesses had received at their hands; then seizing Smiley by both hands, he earnestly exclaimed, "Had my case been presented as well before the courts, I should not now be here." He was declared guilty of the murder of Marshal Richardson. Thus his trial ended.

At six o'clock the tribunal took a recess until eight o'clock. At eight o'clock James P. Casey was put on trial for the murder of James King of William. He was prosecuted and defended by the same persons, before the same tribunal, which after due deliberation adjudged him guilty. When informed of the result, the courage of Casey gave way, and from that hour he was greatly depressed. Cora, the brave little

villain, said never a word but that he would see Belle, heaved never a sigh but for the hastening of her coming. What may this thing be, oh thou whose name is Love! and whence is it, heaven-born or begot in stygian pools, that the presence of a prostitute for a few short hours should seem to take the sting from death itself? Watkins was ordered to go for her with a carriage. He brought her to the rooms by the rear entrance from California street, the other streets at that time being impassable on account of the military, who had taken possession of all approaches to head-quarters. After a short interview with the executive committee she was admitted to Cora's cell, where the two were married between eleven and twelve o'clock on the 22d, by Father Alcoty, the priest refusing to absolve Cora unless he first married his *inamorata*.

All testimony was taken down in writing and is now before me. Guilt in both cases was conclusive, and both were sentenced to be hanged, the day not being immediately fixed. Cora was convicted by a bare majority; Casey by a unanimous verdict. The testimony was read in full to the board of delegates, and the finding of the executive committee was unanimously approved by them. Before voting, the following oath was taken by the delegates: "We hereby pledge our sacred honor to God and to each other never to divulge the vote to be taken by this body, as a verdict on the trials of Cora and Casey, to any living being outside these rooms, and also not to divulge the proceedings of this meeting until such shall have been declared to the general committee. So help us God."

The matter of time and place of hanging was left to the executive committee. The execution was appointed for the 23d, but was subsequently changed to the 22d, between the hours of twelve and two, the day and hour on which King's funeral was to take place. And this for obvious reasons. It was meet the murderer should quickly follow his victim; much more time

and consideration had been allowed him than he had given. Then the people would be better satisfied, and the lesson more striking and solemn.

The testimony implicated another managing politician, Edward McGowan, who in connection with a subordinate tool by the name of Wightman was indicted by the grand jury as accessory before the fact, but both had been spirited away by their associates, and the Committee during several months expended much time and money in pursuing the former in distant parts of the state. It was indeed a sad state of things when a scoundrel felt obliged to run away from a profitable field because he could not buy or manufacture justice. The adventures of this redoubtable man will be given at length in the next chapter. In the midst of the trial the sheriff and his deputy appeared at the door of the Committee rooms, armed with a warrant growing out of this indictment, and demanded the prisoner Casey. The reply of the Committee, as found in the record, is unique. The Committee were satisfied that the sheriff and his deputy had performed their duty according to law, and the Committee had no further communication to make.

Casey spent most of the time now remaining to him in arranging his affairs. In regard to the night preceding his execution, the *Chronicle* of the 23d reports: "He was restless, and passed a portion of it walking up and down. He was heard to exclaim, "Oh, my God! has it come to this? Must I be hung like a dog? During the first two or three days I might as well have escaped from jail as not; I only staid there for Scannell's sake!"

Early in the morning of Thursday, the 22d, the guard round the Committee rooms was augmented. Several companies of infantry were drawn up in a line on Sacramento street, from Front to Davis, cavalry were paraded up and down all the streets in the vicinity, and the house-tops adjacent were crowded with armed men and spectators. The field-piece for-

merly used at the jail was brought and placed in front of the Committee rooms. There were the usual horror-hunters abroad at an early hour, although the impression prevailed that the criminals were not to be executed till the morrow. Thus waited the assemblage patiently all the morning.

At a quarter before one two small platforms were thrust from two of the windows of the Committee building, extending about three feet beyond the wall. An instant afterward two beams appeared shoved out from the roof directly over the platforms. At the ends of the beams were fastened noosed ropes, and ropes reaching from the roof were also attached to the platforms, so that both could be dropped simultaneously. At a quarter past one a white paper was thrown from the window, and the guard below was ordered to present arms.

Both of the condemned wished to see priests; and immediately after their conviction Archbishop Alemany and Father Gallagher were admitted to their presence. Casey was permitted to see friends and to arrange his earthly affairs. The following letter, addressed to the editor of the *Herald*, was delivered by order of the Committee:

"SAN FRANCISCO, May 22, 1856, half after twelve.

"TO JOHN NUGENT:

"you have not Judge me to gratify the publick may god bless you. If you will pleas to see Estell, Farley, Alderman Peckham, and others, you may yet satisfy the Publick you are right. I am innocent of murder or an attempt. Farewell. For my mother sake save my name in New York.

"JAMES P. CASEY."

The question of executioner arose. Several names were mentioned, but none cared to assume the odious office. Finally a well known merchant remarked that he knew one who would do it, but he was in the ranks. Immediately Watkins wrote an order on the captain of the division for the man named to be detailed for special duty. It was none other than Sterling A. Hopkins, of whom more hereafter. This man performed the

duties of hangman, and performed them well. In this business hangmen were as necessary as presidents; and to hold that the honorable Executive planned work dishonorable to perform would but be like the many sophisms by which we sing ourselves upward and onward. At the same time none of us would care to hang Casey or Cora. To say the least, it was not a pleasant duty; neither was much of that which was done in this connection by better men than we.

Two Catholic clergymen continued to attend the prisoners during their last hours. Both were penitent, both made their last confession, and to both was administered the sacrament. They were then informed that their hour had come. Their shackles were taken off, and their arms and legs were bound with cords. Over the face of Cora and round his neck a white handkerchief was fastened, and thus he was placed upon the platform and the rope adjusted round his neck. And there he stood, motionless as a statue, without the utterance of a word or the movement of a muscle until his soul was launched into eternity.

Casey wished to address the assemblage. Hence he was permitted to appear upon his platform as he desired, with head bared and a white handkerchief in his hand. With pale face and bloodshot eyes he stammered through an incoherent speech, made up mostly of ejaculations, denials of guilt, expressions of concern lest his name should be immortalized as that of a murderer, and of confidence of having made his peace with his maker. "Gentlemen," he cried, "I am not a murderer! I do not feel afraid to meet my God on a charge of murder. I have done nothing but what I thought was right. To-morrow let no editor dare to call me a murderer. Whenever I was injured I have resented it. It has been a part of my education, during an existence of twenty-nine years. Gentlemen, I forgive you this persecution. Oh, God! my poor mother! Oh, God!"

Is it not a little strange that nine tenths of all the

wickedest men that ever swung from a gallows, who received religious attention during the hours immediately preceding their death, die confident of being received at once into glory! It is almost enough to convert us to a life of villainy, and make us covet death by strangulation.

At the end of his speech, which occupied about seven minutes, Casey stepped back inside and received the rope round his neck and a white cap over his head. He then shuffled himself forward on the platform like one groping in the dark. Casey stood on the west platform and Cora on the one toward the east. At the signal both platforms dropped simultaneously. The two men fell about six feet, and died almost without a struggle.

In the room where he died they wrapped in a shroud the remains of James King of William, and the restless ten thousand visited the spot that evening. Two days after, that is to say, Thursday, the 22d, funeral services were held at the Unitarian church on Stockton street, whither the body was borne by the Masons at twelve o'clock, the reverends Cutler, Taylor, and Lacy officiating. The church was crowded to overflowing, and the congregation was literally in tears. In the midst of his remarks Mr Lacy was overcome by emotion. The funeral procession, which was nearly two miles in length, represented all the societies and guilds of the city, besides containing hundreds of horsemen, carriages, and citizens on foot.

Turn quickly, while the undertakers are thrusting the coffined martyr into the plumed hearse, and the long array of mourners are filing after it toward Lone Mountain—turn one glance on Fort Vigilance and its vicinity. All the streets and squares about headquarters are filled with military, as we have seen. The Executive are assembled in a body in the front of the building. The board of delegates are likewise

there convened in full force. At twenty-one minutes past one the funeral cortége of Mr King moves, and all the bells of the city toll their solemn requiem. At that moment the military present arms; the signal is given, and James Casey and Charles Cora drop into eternity.

On Thursday morning at half-past ten the steamship *Golden Age* arrived with twelve hundred and twenty-one passengers. In crossing the Isthmus these passengers had undergone the horrors of a serious railway accident, in which fifteen of their number had been killed and sixty wounded. Besides their own troubles they could talk of late outrages committed there in which others had severely suffered. Arrived at San Francisco, they found the city in a turmoil, public places closed, flags at half-mast, and houses draped in mourning. Scarcely had they time to deposit their luggage at the hotel and step upon the street when the body of a murdered man with its two-mile cortége was passing by, and two thousand angry citizens were there in arms, and two men swinging by the neck from two second-story windows. If those twelve hundred and twenty-one regarded their entertainment during the voyage, and their reception on the shores of the Pacific, too tame for them, they were indeed hard to please.

Within a week after Mr King's death a communication appeared in the *Bulletin* over the signature "Many Women of San Francisco." After praising the deeds of the Committee it said: "But, gentlemen, one thing more must be done. Belle Cora must be requested to leave this city. The women of San Francisco have no bitterness toward her, nor do they ask it on her account, but for the good of those who remain, and as an example to others. Every virtuous woman asks that her influence and example be removed from us. The truly virtuous of our sex will not feel that the Vigilance Committee have done their whole duty till they comply with this request."

There, my sisters, you do yourselves great wrong. With your own hands you would heap agony and indignity on the head of one already overwhelmed with sorrow. She is a sinner; so are we all. She has just buried her lover, her husband, whom, though a murderer, she attended to the last moment of his life, and through an agonizing death. Him your husbands and brothers have killed; is not that at their hands punishment enough upon her for being an unfortunate fallen woman? Ay! bristle as you will in your immaculate wrath, I tell you, proud dames, stainless dames, dames proud of your stainlessness, that but for the providence that plans your destiny or the environment that props and guards you, delivers you from temptation, and makes her sin loathsome to you, you would be like Belle Cora. Had you been born, reared, and circumstanced as was Belle Cora, a thousand to one you would be Belle Cora. Had Belle Cora been born, reared, and circumstanced as were you, a thousand to one she would be as pure and as proud of her purity to-day as are you. Environment and circumstances make us, nine parts in every ten. Perhaps we do the rest. How can you then so loathe and persecute your frail sister! You say it is not she, it is her sin you hate, and you would drive her hence not to punish her, but to protect society, to save your daughters, to maintain morality at the current standard. Softly! softly! That crime in a man, in your male acquaintance—in your brother, even—would you so hate it there? Are you sure it is the sin only you abhor? You would drive her hence to protect society and save your daughters. She saves your daughters. Who made her what she is? Not she. Not one of your sex. It was your husbands and brothers, or their associates and yours—it was they upon whom you now call to drive her out, it was they who made her what she is. If you truly desire to eradicate the evil, drive out the men. Make war on them. They are the criminals; such as she, the

victims. Indeed it is pitiful to see you tread her deeper into the mire with your haughty feet, while you smile on him who placed her there. How many of your male acquaintances are culpable? How many of them are not culpable? Ask them. Your God, your bible, your creed, your savior make no distinction between male and female sinners; how, then, dare you? Drive out the men, I say; but beware whom you drive, lest you should run after some to call them back. Over woman's wrongs to woman, angels weep.

No, it is false. "Many women of San Francisco" never made such a request. One woman wrote the communication, in which she twice calls herself virtuous. Whether she be virtuous or not, she best knows; but those are not virtuous lines which she has written.

Hear what a true woman says upon the subject in the *Bulletin's* issue of May 27th:

"A woman is always a woman's persecutor. In my humble opinion, I think that Belle Cora has suffered enough to expiate many faults, in having had torn from her a bosom friend, executed by a powerful association. It was just and right that Cora should die, but I contend that by his death the public is avenged. She has shown herself a true-hearted woman to him, and such a heart covers a multitude of sins. This very circumstance of expulsion might be the means of utter desolation of heart. The effects of the tragedy may be the means of improving her moral character and making her socially a good woman. ADELIA."

What a contrast between this and the former communication, between this and the other woman! These lines breathe of virtue, none the less stainless because intermingled with that spirit of divine forgiveness which the dear Christ bestowed on the sinner. Noble Adelia! with thy lofty-minded purity and sweet charity; were all so-called virtuous women like thee, there would be fewer fallen.

Belle Cora kept a bagnio on Waverly place. Like Cleopatra, she was very beautiful, and, beside the power that comes of beauty, rich; but oh, so foul! Flaunting her beauty and wealth on the gayest thoroughfares, and on every gay occasion, with senator, judge, and citizen at her beck and call, and being a

woman as proud as she was beautiful and rich, she not unfrequently flung back upon her stainless sisters the looks of loathed contempt with which they so often favored her. She was what she was, God only knows how or why; they were what they were, being made so. The homely pure hated the beautiful bad in self-defence, so we are told. A little jealousy might have been mixed with their virtuous irritability, because men ran after beautiful badness rather than unattractive goodness; but what sort of citadel is this which fashion provides for female chastity which compels the virtuous woman to fling at the feet of every prostitute she meets on the public streets the gage of battle? Heaven save me and mine from that quality of female virtue which for self-protection must needs at every turn heap scorn and reproach upon the wicked and unfortunate. Says a biographer of one of the purest of English poets: "To be taken into Lamb's favor and protection you had only to get discarded, defamed, and shunned by everybody else; and if you deserved this treatment, so much the better! If I may venture so to express myself, there was in Lamb's eyes a sort of sacredness in sin, on account of its sure ill consequences to the sinner; and he seemed to open his arms and his heart to the rejected and reviled of mankind in a spirit kindred at least with that of the deity." Would to God the spirit of this man, if Christ's be wholly denied them, might fall on our wolfish women.

There are those who hold that Charles Cora should not have been hanged. Members of the Committee, who participated in the trial before the Executive, have expressed to me their opinion that he was not guilty of murder, but that he killed Richardson in self-defence. As a matter of course in his trial before the law court half a dozen witnesses were brought forward who testified that Richardson slapped Cora's face, that Richardson drew a pistol, that a revolver was picked up near his right hand after he had fallen,

and the like. Belle Cora offered a woman, who happened to be passing at the time, a thousand dollars to testify that she saw a weapon in Richardson's hand just before he fell. In criminal cases money and skill can prove almost anything. After the lapse of time, with all the evidence before us, there is no question but that Cora was guilty of murder, and should have been hanged by the court. Even though Richardson quarrelled with him, he need not have killed him. Even though Richardson held a weapon in his hand at the time, the fact does not necessarily imply that Cora's life was in danger. He could have walked away, and Richardson would not have slain him. There was not the slightest danger of it; and even had there been, I had rather be a murdered man than a murderer. That vigilance judges themselves, some of them, should wish to excuse so foul a crime, only shows how totally unfit some men are, from the construction or training of their minds, to determine justice where the life of a fellow being is at stake.

It was a grand old-fashioned Irish funeral Casey's friends gave him. After all he had done something for his party, if he was hanged for it. And the men of law were not ungrateful. Besides there was the King burial display of the vigilants; and the stuffers and strikers must now see what they could do. From the Crescent engine-house, where the body of Casey was taken, eighty-four carriages, eighty horsemen, and four hundred on foot followed it to the Catholic cemetery. It was a grand sight. Who would not die the death of the assassin, if one's end might be like his!

Meanwhile poor Belle Cora could boast of but six hacks at her husband's funeral. She had taken the body from the stern executioners; she was bad, she was very bad, but she was a woman! She took the body and bathed it in her tears. Were they genuine salt-water tears, or were they ditch-water tears? And

six poor hacks held all the gambler's friends, while Casey's proud carcass, which never contained half the manliness of little Cora's, boasted its well nigh six hundred followers. But Cora had the handsomest coffin, thanks to his ever loving mistress-wife; a beautiful affair, they called it—solid mahogany, lined with white satin, sides of gilt scroll-work, silver nails, and a silver plate. Comfortable, but for the dripping grave-walls and the worms!

CHAPTER XIV.

THE HONORABLE EDWARD McGOWAN.

A fine and slender net the spider weaves,
Which little and light animals receives;
And if she catch a common bee or fly,
They with a piteous groan and murmur die;
But if a wasp or hornet she entrap,
They tear her cords like Sampson and escape;
So like a fly, the poor offender dies,
But like the wasp, the rich escapes and flies.

Denham.

NED McGOWAN was a genius. He was as great a man in his way, as unique and individual as any who have achieved distinction in the more ordinary paths of life. He belonged to a fraternity *sui generis;* whatever they did was in a way of their own. Their style was themselves; they studied in no foreign school; they adopted no foreign code. Original was their situation, and they were original. In ethics and politics utility was their standard. If falsely testifying and falsely judging would sooner bring about the desired end; if false-bottomed ballot-boxes would bring true and speedy election, when all other means were uncertain, would not a wise man avail himself of the most direct and certain agencies?

McGowan reminds me of Spinoza, because of their dissimilarity. Spinoza was a Jew, born in Amsterdam; McGowan was a Philadelphia shoulder-striker of Irish extraction. Spinoza was slender in form, in complexion olive, frail, delicate, consumptive-looking, and leading the life of an anchoret; *un moulin de raisonnement*, Leibnitz called him, an intellectual mill for the manufacture of syllogisms. McGowan was stout, in

complexion ruddy, frail and delicate in his morality, and exceedingly consumptive about bar-rooms. His mind was a machine, not for grinding out syllogisms, but for turning off a certain quality of men wherewith to fill offices.

Both achieved the full mastery of their abilities. There is sometimes found present in characters where least expected, a dull, heavy harmony, springing from the play of opposite qualities.

Any one can be an anchoret; any one can be honest. It is easier to be upright than dissolute. Any one can thieve and be caught. Much talent is required to achieve an occasional misdemeanor, and still be able to walk the streets a free man. When therefore we encounter a character rich in honorable rascality, which throughout a long and illustrious life has occupied a front rank in professional scoundrelism, and has attained old age still happy in that equipoise which brings success, we may safely conclude such a one to be nothing less than a genius. Honor to the honorable Edward McGowan! He lived long and prospered. He reaped by wickedness that which few can attain but by a life of laborious virtue.

Ned was bad enough, but he gloried in a reputation for being worse than he was. The great mistake of his life was not in adopting rascality as a profession, for in that he succeeded very well, but it was in writing a book. Conscious of the sacred fire within him, he could not die and tuck his soul beneath the shades in comfort, never having shed ink. His work is a kind of Knave's Rest. It is entitled *Narrative of Edward McGowan, including a full account of the Author's Adventures and Perils, while persecuted by the San Francisco Vigilance Committee of 1856. Published by the Author, 1857.* Posterity might have forgiven everything but a hideous picture, of the bull-dog style of beauty, yet a faithful representation of himself, which he put on the cover. How vanity blinds one! Had this man sought to convince the world of his inherent

brutality and baseness, which in truth was the opposite of his purpose, he could not have found a more direct or certain method than by publishing his likeness, in which was a grotesque melancholy, as of one more sinned against than sinning, overspreading features stale with gin and iniquity; long greasy hair, covering high, pointed brain-chambers behind a mansard forehead; sinister eyes, piggish cheeks, and a cataract of bristles on the upper lip—these mark the returned exile who, in the pages accompanying this model representation of human debasement, casts himself upon a prejudiced public.

In all this the honorable Edward did himself great injustice. A portrait published in the *Police Gazette*, at the time a reward was offered for his apprehension, was much handsomer. In truth a jolly villain was the judge. A sight of his fat, flabby face, his kindly eye, beaming blood or festivity according to circumstance and potations, with Greeley hat covering low the brain which had planned and plotted to the owner's eternal renown, was better than a whole night's revel unaccompanied by his genial presence. Nevertheless we will in this instance go by the book, and take him at his own imprinting. There is still to be seen, on pleasant afternoons, at the time of this writing, loitering along the sunny side of the streets in San Francisco, a neatly though somewhat loudly dressed white-haired and white-hatted man, who delights in the name 'Ubiquitous,' whose military mustache is now bleached by gin-fumes and some sixty-five years of sinning, and whose history, like that of many another poor straggler along the same streets, is full of romance.

The portrait upon the book, however, is the man; and his life, the words which follow, are empty wind. Characteristic of his writing is the appearance of the author's belief in his own innocence. This ghost of sincerity is carried to the verge of irony through every page. Like the frail damsel who bewails her

lost virtue by superfluous asseverations of her purity, Ned harps upon his honor, his wrongs, and sufferings until the most stupid reader cannot but detect the hollowness of the strain. And yet tinged with such sombre shades, in some measure, are all good and great men of virtue and genius born.

Mr McGowan's book opens with an introduction full of bogus pathos, in which he strikes the attitude of martyr, and ranges the members of the Vigilance Committee round him as fanatics. This is truly placing matters in a new light. It reveals to our understanding a view from the other side, which simple thought and research could by no possibility obtain. We thank the judge for this illumination. We would if possible concentrate light and pour it upon this subject until through it and on every side of it all is as clear as crystal. After diligent search I find nothing in Ned's martyrdom unusual to the suffering people of Satan. He was persecuted for the truth; in this he says rightly, for it was true that for which he was persecuted. They who did it were fanatics; that is to say, in the same sense that Ned was a persecuted saint.

The honorable Ned says he entered political life in 1837, was made five times district clerk, and in 1842 was elected to the legislature of Pennsylvania, of which state he was native. He says nothing of the Chester County Bank robbery, of which he was ashamed; nor of the time prior to his politico-pilfering career, when he was compositor, a swift, industrious craftsman, of irreproachable character, a compositor in the printing-house of Adam Waldey, of which honest occupation he was no doubt also ashamed.

To this book, I must say, we are indebted for very little information of any kind. What we would know of Ned himself, and of his doings, we must seek from other sources. In the latter part of 1835 he began to be seen about the democratic primaries and public meetings in Philadelphia, where his ready intelligence

and fiery spirit soon caused him to be marked as a rising star among the tough old politicians of the democratic *régime*. He was soon master in the art of managing elections, and was courted by the great ones of his party as a young man who had merit in him and was useful to the country. He soon fell into the evil ways of the politicians, and began to loiter about drinking-saloons and gaming-tables, where his wit, dash, and fluency as a tap-room orator made him always welcome. He began to read law, also, and was elected clerk of his political district. He continued to rise in the favor of his party, and was finally elected a member of the assembly. At Harrisburg his youth, pluck, and proficiency in all the arts and wiles of the politician rendered him conspicuous, and he soon plunged into the arena of debate with a violent speech, abounding in the grossest personalities, against the governor of the state. The *State Capital Gazette*, in an article reviewing this speech, excoriated the young Demosthenic bully mercilessly; and the next morning, McGowan seeing the editor, Mr Brannan, seated at a desk in the hall of the assembly, deliberately walked up and stabbed him, inflicting a serious but not fatal wound. His political friends shielded him from punishment, but he was counselled to resign his seat and return to Philadelphia, which he had the prudence to do, and was soon afterward appointed a captain of police. At this time he had ripened into an accomplished *roué*, and was the boon companion of some of the most dissolute characters in the city. Then followed the Chester County Bank robbery and the flight of Captain McGowan. He was apprehended in the western part of the state disguised as a drover, with some of the stolen money in his possession, and was brought to Philadelphia, and after undergoing a form of trial escaped to California, arriving in San Francisco in 1849, and entered *con amore* upon the wild life of the time and place. He soon became a power with the democracy here, presiding in conventions and man-

aging elections in a royal manner. A special bill for his relief from the Chester County Bank difficulty was passed by the California legislature, and he was cheek by jowl with the greatest men of his party. He was elected a justice of the peace, and his court was the scene of many fierce battles among the windy votaries of the law. In 1851 we find him sitting as associate justice in the court of sessions. He resigned his legal sceptre after a time, however, and was appointed commissioner of immigrants by his friend Governor Bigler. This was a remunerative office, and the gay and eccentric McGowan is supposed to have made the most of his golden opportunities, as he basked in the smiles of the most charming and costly cyprians, and floated in oceans of champagne. He was involved in a number of amours and intrigues, and would brook no rivalry in affairs of this kind.

In June 1851 John Nugent was indicted for sending a challenge, and brought before the court of sessions, Campbell, judge, and Brown and McGowan, associate justices. Weller and Heydenfeldt were Nugent's counsel, and McGowan was his friend. This and other favors Nugent never forgot. Ned was then an upright judge, and had nothing to fear from the newly organized Vigilance Committee, especially as long as he had a friend at court in the person of the editor of the *Herald*, one of the chief supporters of the cause.

Upon the minutes of a general meeting of the first Committee, held the 22d of July 1851, Selim E. Woodworth in the chair, a motion was made by Mr Brindley, and adopted, that:

"WHEREAS, E. McGowan, formerly a police officer in the city of Philadelphia, now an associate justice of the court of quarter sessions of the county of San Francisco, was convicted of being an accomplice in the robbery of the Chester County Bank, in the state of Pennsylvania, and obtained a new trial, on which he escaped conviction from the absence of witnesses who had testified against him on the former trial; and whereas, the said E. McGowan has been charged with official corruption by a grand jury of the said county of San Francisco; therefore, be it

"*Resolved*, That if these charges be true it is a disgrace to the county to tolerate him in the position he occupies; and be it further

"*Resolved*, That the executive committee be directed to investigate the matter and report to the general committee; and if their report furnish sufficient grounds, in the estimation of the general committee, that he be requested to withdraw from the bench, under penalty of the said report being published to the world in case he refuse."

There never yet was a man just because he was judge, though many may have been made judges because they were just. Ned was neither the one nor the other; he was not judge because he was just, not just because he was judge. And there were others like him in those days.

On the fatal afternoon when James King of William fell before the pistol of Casey, McGowan is known to have armed himself with unusual care, and was heard to say, as he hurriedly glanced at the paper containing the article abusive of his *quasi* friend, "Casey will attend to that!" And this notwithstanding Casey and McGowan were not just then upon the best of terms. In virtue they were enemies; in vice, friends. Often it is easier to quarrel with a friend than to discharge an obligation.

The testimony that was given at the coroner's inquest showed plainly enough that McGowan knew what was going to transpire that day, and stood around whiling the leaden hours away with gin cocktails as he awaited the portentous report of Casey's revolver. The fact does not, standing alone, condemn him as a malefactor of the blackest type. Those were hard days. Casey had his quarrel to dispose of according to the savage practice of the time, and McGowan was simply loitering and listening with a friendly interest in the event, which in the lurid heat of the people's mighty passion made an ugly-looking case for him, and actually imperilled his life. The fearful uprising of the people, and the swift and menacing action of the executive committee, soon hedged McGowan about by imminent danger. The grand jury indicted him as accessory before the fact to the murder of

King, and the vigilants rushed forth on his trail. McGowan went into hiding promptly, and began that interesting series of experiences as a fugitive from the terrors of the Committee, which he so feelingly sets forth in his book.

On Tuesday, the 20th of May, as the bells tolled the departure of James King of William, Casey lifted his eyes in his cell as the slow and sorrowful knell struck the air, then bowed his head in his hands with a sigh of despair. It was an ominous and terrible sound to Edward McGowan likewise, and he knew that he must fly for his life. For ten days he lay concealed in the rooms of a friend in Commercial street; meanwhile the emissaries of the Committee were putting forth every exertion to find him. He finally was compelled to venture out, and, disguised and heavily armed, he made his way to another place of concealment on the road to the Mission Dolores, in the house of an old lady, where he remained for a month. While there he frequently saw companies of vigilants out on drill, and the sunlight flashing from their polished arms aroused mingled emotions.

On the 27th of June, with the intention of making his way to Philadelphia by the southern route through Mexico, McGowan, accompanied by a friend, started south, travelling with elaborate caution and assuming disguises, chief among which was that of an American priest examining the missions for the purpose of writing a book. Reaching a rancho in the vicinity of Santa Bárbara after a long and arduous journey on horseback, Ned paid his respects to the Fourth of July by exciting an old Mexican to intoxication. This made the Mexican's wife angry, and perhaps Ned was never at any time, during the period of his flight and concealment, in greater danger of utter annihilation, and he was almost constrained to wish that his country had never been born. I may here remark that in the narration of Mr McGowan bottles of whiskey, and bottles of brandy, and bottles of low

degree waltz up and down in gorgeous procession, shedding a tropical glow over the rocky pathway of this distinguished man.

Certain persons who knew McGowan recognized him in the streets of Santa Bárbara, and raising the alarm a mob was gathering to apprehend him, when a horseman dashed up, and leaping to the ground caught Ned by the hand with the rapid exclamation, "They are on your track, Judge; trust yourself to me, or you are lost!" It was Jack Powers, the robber chief, whose career on the road had won for him the weird title of Destroying Angel. Following the highwayman at a run down a narrow street, McGowan was passed by him through an open window into a room where there happened to be lying loosely on the floor some forty yards of carpeting, into which he was rolled and left to lie there like a gigantic cocoon. Jack then sprang out through the window and led the noisy chase after an imaginary McGowan, rendering himself conspicuous by his energy in the matter, but never finding his man. Eventually, however, the pursuit became so warm that a Spanish friend of Ned's, desiring to throw his enemies off the trail, started a report that a man was seen skulking into a tule swamp near town, and thither the clamorous crowd turned, thinking the game was at last in the toils. The tules were fired, and crackled with empty exultation before the evening wind, as McGowan lay suffering with thirst and fighting millions of fleas in the roll of carpeting. That night, with the assistance of Jack Powers, he managed to escape to the mountains back of town, and hid himself in a thicket. There he remained all the next day, and slept in an oatfield the following night. Hunger at last drove him to a neighboring rancho for food. Wandering about, he lost himself, and at last, by good fortune, fell in with Jack Powers again, who put him upon a mule, and conveying him to the Arroyo Hondo, placed him in charge of a Spaniard and his wife, with the request

that they should take care of him until the hunt was over. Here on the Arroyo Hondo, in a wild and lonely cañon whose rocky walls forever echoed the melancholy thunder of the neighboring sea, the hunted man rested from his fears for a while and undertook to recuperate his wasted frame on a diet of jerked beef and *pinole*. The inevitable brandy-bottle *chassez* into this idyllic pause in the sounding epic of our honorable judge, in a little anecdote which fitly illustrates the fathomless treachery of the native Californian character in all exigencies involving the care and custody of the amber-hued stimulant which usually attacks society under the familiar legends of Hennessey, Martel, or Noble. Ned had despatched one Pedro to town for a number of articles, including a bottle of the liquid alluded to, which errand Pedro faithfully performed, with the exception that he had transferred the brandy to an original Californian package, and was heroically cheerful under the trying circumstances of the hour. He gravely reported that certain friends of McGowan's objected to his being furnished any more liquor, for fear he would be guilty of some imprudence; consequently he had ground the bottle to powder under his heel, and had scattered it to the winds.

Things went smoothly enough until the night of the 14th of July, when General Covarrubias, of Santa Bárbara, a friend of McGowan's, galloped up to the door and informed him that a detachment of twenty or more vigilants had arrived at Santa Bárbara by the San Francisco steamer, and were going to renew the search for him. Packing a mule with blankets and provisions, he went back a little distance into the mountains where the chaparral grew in densely woven thickets, and remained there for a week, visited only by the little son of his host on the Arroyo Hondo. While sleeping out in the cañon, about this time, Ned was crawling into his blankets one night, when a movement and an ominous whirr

started .him in terror to his feet. The blankets having been displaced by the action, a large rattlesnake glided from his bed and coiled itself menacingly before him. When we consider the quantity of Mexican brandy the exile was absorbing in those days, our sympathies naturally fall on the side of the serpent. It was perilously near biting the wrong man.

Relaxing his watchfulness somewhat, Ned was refreshing himself with a bath at a little spring near the dwelling of his friends one afternoon, when the boy accustomed to carry him food came running toward him from the house shouting breathlessly: "Los hombres en la casa! vigilantes! escopetas! vamos! vamos!" Ned again escaped to the friendly shelter of the chaparral, and calmly waited for the danger to pass.

Two Americans, one of them named Meacham, the keeper of the light-house there, and the other a San Franciscan, had visited the house, armed to the teeth, with the intention of taking him dead or alive, but their inquiries failed to elicit anything from the señora or her husband which would betray him, and, having partaken of the repast that had been prepared for McGowan, they rode away. Not long after, other members of the Vigilance Committee, carrying bench-warrants for the apprehension of McGowan, arrived at Santa Bárbara, but could learn nothing of his whereabouts, and so returned. The newspapers of the state were teeming with all manner of false reports and sensational accounts concerning him and his movements, and he was really the lion of the day. Here is an advertisement which appeared in the Santa Bárbara *Gazette:*

"Three hundred dollars reward! It being rumored that one Edward McGowan, a fugitive from justice, on the charge of murder, from San Francisco County, who was last seen in Santa Bárbara, has been murdered for a sum of money known to have been in his possession, the above reward will be paid for the recovery of his body, or for information that will lead to his recovery, by applying to the office of Russell Heath, sheriff of Santa Bárbara County."

About this time McGowan became satisfied that Don Pedro, his host on the Arroyo Hondo, was meditating treachery, and so he determined to seek shelter under the roof of Doctor Den, whose rancho was on the road from the Arroyo Hondo to Santa Bárbara. He knew the doctor to be a friend, and he was loath to trust himself longer to the Punic faith of the native Californians. Arriving stealthily at the rancho, Ned was chagrined not to find the doctor at home, but was more than mollified by the kind reception given him by Doña Rosa, wife of the doctor, who provided for him generously. She also informed him that armed horsemen were continually patrolling the roads in search of him. Leaving a letter for General Covarrubias at the rancho, with the request that it be forwarded at the earliest moment possible, he retired to the mountains to await the reply. There he became lost in a labyrinth of cañons, and nearly perished from hunger and thirst. By great good fortune he at last struck the waters of an arroyo which led him down to the doctor's rancho. General Covarrubias was already at the rancho, awaiting him, and he and Doctor Den received the forlorn fugitive with open arms, and extended to him every kindness. A camp was made for him in the centre of a cornfield convenient to the house, where for six weeks he remained in comfort and security, after which a room was given him in the house during the remainder of his stay.

Meanwhile every now and then a rumor would be started that Judge McGowan was scented, or captured, or tried. Scores of reports of this kind came in from every quarter, from San José, Sacramento, from Napa, from Monterey, from Nevada, and from beyond the mountains. A gentleman wrote from Philadelphia that he was there with him at his house, on Ninth street, below Catherine. So that to Ned was given the *sobriquet* of 'Ubiquitous.'

When tidings of his appearance at Santa Bárbara

reached San Francisco, certain members of the Vigilance Committee waited on Sheriff Scannell and requested the warrant issued at the time of King's murder. The sheriff refused to give it up, but promised to send a deputy after the culprit. As the matter seemed to the Committee to demand haste, they chartered the schooner *Exact*, which with ten of the vigilant police went to sea on the 9th of July. The sheriff's deputy went down on the *Sea Bird* two days afterward. Jack Powers was arrested in San Francisco the 27th of March 1857.

Thus passed about nine months since McGowan left San Francisco. Some time in the month of February McGowan concluded that a reaction in public sentiment had taken place, and that it was possible for him then to appear among his fellow-citizens anywhere outside of San Francisco without danger of violence; so accompanied by a few friends he set out on horseback for Sacramento, where he hoped to procure the passage of a special-legislation act to defeat the ends of justice, allowing him a change of venue from the courts of San Francisco to some other district where he might have a fair trial—that is to say, a trial which would be sure to leave him free. He arrived in Sacramento in due time, when his appearance on the streets in the *outré* costume of his exile created no little excitement, and was warmly greeted by a host of friends and sympathizers. The political friends of McGowan were largely in the majority in the legislative body, and despite the opposition of the San Francisco delegation, a bill was finally passed allowing any person, making the proper showing, to apply to any court where a criminal charge was pending against him for a change of venue to some other court, without the necessity, the *sine qua non* in McGowan's case, of making a personal appearance in the said court. Under the provisions of this act McGowan procured a change of venue to the seventh

judicial district of California, and in May 1857 stood his trial at Napa City, and was of course acquitted.

The *Bulletin* was disgusted. Says the issue of the 3d of March 1857:

"Ned McGowan, the ubiquitous, has actually arrived in Sacramento. This time there is no humbug about it. It is the identical ballot-box stuffer himself. He puts up at the Magnolia drinking-saloon, where during all of yesterday he was the centre of a large circle of admirers with the like of whom this city swarms at present. Sacramento at this time resembles one of the old Jewish cities of refuge, where murderers and other criminals could flee for shelter from the avengers of blood. How long this state of things shall continue depends entirely upon the inhabitants themselves, and of course is no business of the San Franciscans. It appears that owing to the organizations of vigilance committees and sheriffs' *posses*, from San Diego to Monterey, McGowan was afraid his quarters would be beaten up, and that some well intentioned but ignorant party of men might mistake him for an escaped felon or fugitive from justice, and hang him before his friends had a chance to establish his remarkably good character. That part of the country, then, becoming too hot for him, he was forced to look around for one where he would find friends and comrades better able to shelter him, and where anti-hanging prejudices obtain more generally than in the lower country. One of the numerous copies of Estill's speech which were gratuitously placed upon the desks of the members of the legislature for distribution, and were for sale in the bookstores, found its way into his hands. From that, and the fact that it was suffered without opposition, save from a vigilance man, to be read in the assembly hall, he formed his own estimate of the character of the present legislature; and, if he longer hesitated, a copy of the report of the quartermaster and adjutant-general, and notice of the pardon of Stoncifer, and that two of the exiles were here unmolested, must have decided him. It is said that he will now ask the legislature to pass a special act for his benefit, to enable him to be tried here without going to San Francisco. It remains to be seen whether his numerous and acknowledged services to the democratic party will be rewarded in this way. Members of the legislature will now have a fair chance to express their opinions, and will in all probability be compelled to come out and show distinctly whether their sympathies are with the people or in favor of shielding this prince of ballot-box stuffers, shoulder-strikers, and assassins."

And again, the 23d of May, speaking of the trial:

"The first act in the farce of trying a notorious scoundrel for being accessory to a foul murder has come off at Napa. Ned McGowan, the cunning but cowardly and unprincipled man who has played so conspicuous a part in the villainy that has heretofore been practised in this city, the tool and accomplice of equally as guilty parties now in our midst, has at last been caged in Napa, and is undergoing a farce of a trial, which is only intended to create sympathy for a hardened wretch, totally unfit to be loosed on society. Nearly

three months since, this fugitive from justice made his appearance on the public streets of Sacramento. Under the eye of the very governor who claims to have offered a reward for his apprehension, he was suffered, although under an indictment of a grand jury, to roam at large, hold levees, and be lionized by men of the same stripe. He was not only persuaded to ask for special legislation in his behalf, but members seemed eager to obtain his favor by granting his request; and he was permitted to occupy a seat within the bar of the assembly, during the session, by the side of a boon companion. After being feasted and lionized by his gaping advisers and would-be imitators, a judge was found who had sufficient regard for the forms of law and public decency to order McGowan to close confinement. That he is guilty of every charge, and even more, that has been laid to him, no one pretends to doubt. His criminal conduct in Pennsylvania, and his subsequent villainy in this state, have rendered him infamous. That he could be convicted, if the proper course was pursued, of crimes sufficient to consign him to the gallows, is true; but that he could be punished at the present time, while his friends are in possession of power that ought to be in honest hands, is doubted by all. A want of confidence in the authorities has produced an apathy among the people, as regards any attempt to prosecute this trial to a successful issue. They believe that the only thing to be done in this case is to mete out justice themselves, or await the advent of honest officials of their own choosing. That McGowan's occupation as ballot-box stuffer and worker in crime in this city is at an end, we are confident."

Napa had acquired quite a reputation in those days for liberating murderers. It was quite the thing if you had killed a man to go to Napa to be cleared. Lawyers, barkeepers, and hotel proprietors all treated such felons as favored them with their patronage with every kindness, sending them their choicest viands free of charge. Ned's friends were of a class that drank often. The saloon-keepers could rely on them; they were always thirsty. Jailer, judge, and jury were all free and easy, kind and lenient; if the prisoner had money and spent it, he was a good fellow and need have no fear. In this instance with a gravity which challenges our credulity, the trial turned on the question whether King was killed by Casey's pistol-ball or by the physicians who did not cure him; and as there was no other plausible ground on which to cleanse Ned's skirts, they easily found two physicians, Dr Cole and Dr Toland, who testified that in their opinion King died from the effects of treatment by other physicians to whose course of practice they

took exceptions. In other words, it was not the shooting which caused King's death, but the sickness which followed the shooting and which the physicians failed to cure!

No sooner was Ned declared an innocent by Judge McKinstry than he set about editing and publishing a paper. It is not a little singular how many innocents there are in America to-day editing newspapers. Ned's paper was called the *Phœnix* at first, under which name it ran twenty-five Sundays, from the 30th of August, when in wrathful decay it ulcerated and appeared under the name of the *Ubiquitous*, the morning of Sunday, the 21st of February 1858.

The first number of the *Phœnix* opens with *McGowan's Lives of the Stranglers*. But for his art of dodging, the biographer himself might ere this have tasted the new social reform; as it was he must content himself concocting smells which if rank enough to reach the object aimed at, filled the measure of his ambition. Having analyzed Ned's *Narrative*, I shall now examine his journal.

The *King of the Polecats* is the polite heading of an article in the first mumber, on the brother of James King of William, the substance of which is in fair keeping with the caption. On the second page a complete "list of the stranglers" is given. This is followed by a "salutatory" which is "fully aware of the responsibility" falling on an editor; which promises that, truth being abundant, lies will not be resorted to for the annihilation of enemies—a position which, though possibly assumed, never before was maintained by a public journal; which acknowledges the duello a part of its political creed; and which declares that none but vigilants "need fear exposure in our columns." According to the bold licentiousness forthcoming, the editor says: "We shall strive to present a paper which will be read and sought after by all, but should our columns contain things which should shock the fastidious, and prevent it from being the companion of the

drawing-room and family circle, we shall have to ask grace of our readers, for we deal with filthy subjects, and as a faithful historian we are compelled to give every item both of atrocious vulgarity and glaring crime."

The second number comments on the ancient puritan as he appears in the modern strangler, and views him in his "admixture of piety and hypocrisy," his liberty-loving desire of crushing others, and his quaker-hanging and witch-drowning proclivities. It then takes up one after another of several of the executive committee and comments upon their chararter in no flattering terms.

The fourth number appeared in mourning for the death of Judge Murray, as left-handed an honor, surely, as ever was paid a chief-justice of a supreme court. Every printed word concerning McGowan or his narrative was reproduced with lively if not very chaste comments. Scores of San Franciscans were thus bespattered with the filthiest blackguardism. To obscenity it added blackmailing, and until the 20th of June 1858, the last number I have seen, drove an iniquitous trade.

The dead *Phœnix*, rising on the 21st of February 1858 into new life as the *Ubiquitous*, again salutes its patrons with "no ordinary feelings of pride and self-gratulation." "In defiance of all right and justice," it adds, "in violation of every principle of truth, our enemies have seen fit, in their demoniac rage at our showing them to the world in all their hideous deformity, to endeavor to hinder and delay us in its further execution. In this, however, they have not succeeded." The opening number of the *Ubiquitous* contains a wood-cut of '33, Secretary,' which with the additions of two leading saloon-keepers, Hopkins, whom he calls the hangman, and Jules David, graces the last page of the last number, under the title of 'McGowan's Portrait Gallery of the Stranglers for Fraser River.'

All the issue of the 14th of February of this delectable journal sent to San Francisco was seized by the chief of police as unfit for circulation; whereupon next day in an 'extra' a great cry was raised by the editor. "Another outrage in the city of blood! Newsboy arrested and paper seized! Is there anything obscene in this paper? The freedom of the press tolerated by the stranglers in their strangling press only. The stranglers writhing under our lash! Who says we are not getting even, more than even?"

A whole volume of reflection on the freedom of the press is offered in this ludicrously absurd cry. Nor should the honorable judge have so openly acknowledged that he was getting more than even, for that is not justice.

In 1862 we hear of Judge McGowan in the gold-fields of British Columbia. Ned always possessed quite a *penchant* for gold-getting, in whatsoever capacity. "As an instance of the workings of universal suffrage," writes Mayne, "it may be mentioned that this man at one time filled the office of a judge in California; and quite recently when, after shooting at a man at Hill Bar, whom he luckily missed, he escaped across the frontier into American territory, he has been elected to the house of representatives of one of the border states that lie east of the Rocky Mountains."

And again, speaking of some disturbance created by McGowan at Yale, he says: "Colonel Moody, representing the majesty of the law, was still at Yale. Mr McGowan outraged it unmistakably by committing an unprovoked assault. This, coupled with sundry other suspicious circumstances, caused Colonel Moody to think that McGowan's friends and admirers would, if provoked, break into serious insubordination; and he at once instructed me to drop down the river to Hope and Langley and order up the engineers, marines, and blue-jackets left at those places. Mr McGowan, after enjoying the sensation

he had caused, paid the commissioner a formal visit, and after making a very gentlemanly apology for the hasty blow which had disturbed the peace of British Columbia, committed himself frankly into the hands of justice! What could be done with such a frank, entertaining rascal? He was fined for the assault, exonerated from all previous misdemeanors, and next day, upon Hill Bar being visited by Mr Begbie, the chief-justice, and myself, he conducted us over the diggings, washed some dirt to show us the process, and invited us to a collation in his hut, when we drank champagne with some twelve or fifteen of his California friends. And whatever opinion the Vigilance Committee of San Francisco might entertain of the gentlemen, I, speaking as I found them, can only say that, all things considered, I have rarely lunched with a better-spoken, pleasanter party. The word miner, to many unacquainted with the gold-fields, conveys an impression similar, perhaps, to that of navvy. But among them may often be found men who by birth and education are well qualified to hold their own in the most civilized community of Europe."

I give herewith some letters of Mr McGowan's which fell into the hands of the Vigilance Committee, which fix his social status more definitely than any other evidence I have seen. And first, one addressed "Judge McGowan, care D. C. Broderick, Union Hotel, San Francisco. By Adams and Company's Express from Auburn."

"AUBURN, September 8, 1853.

"DEAR JUDGE:

"I seize the moment to communicate the news from Placer County. Our vote is not so large as last year by 1000; Bigler's majority will be about 225. Precincts all heard from except two or three small ones in the mountains. County ticket all elected. Drunkard's Bar, 100 votes, polled Bigler 98; the rest of the ticket 100—in sporting language *a flush*. Can you beat it, hey? I'll be at home on the 10th. Yours,

"DICKSON."

"Dr Dickson who wrote this letter was killed in a duel at Sacramento, March 9, 1854, by Philip Thomas. I was the *'friend'* of Dickson. He

was a noble fellow, and was deserving of a better fate. The quarrel was not his own, but that of a friend, whom Thomas refused to recognize as a gentleman. Dickson took his friend's place and fell mortally wounded. Peace to his ashes.

"EDW. McGOWAN.

"*San Francisco, March 26, 1854.*"

The honorable John B. Weller to the honorable Edward McGowan:

"WASHINGTON CITY, January 24, 1853.

"MY DEAR SIR:

"In the multiplicity of other engagements I have only time to write you a short note in reply to your letter of the 15th ult. You will be kind enough to pay over to my brother C. L. Weller the amount due me from the Marine hospital. In regard to the federal offices in California, I can only say that I am much mortified at the great number of applicants for all the offices in that state. I am literally overrun with letters, etc. After all names have been presented, the delegation from California will attempt to unite in their recommendations. If in the general scramble anything can be done for you it will give me great pleasure. Respectfully, your friend,

"JOHN B. WELLER."

"*Ed. McGowan, Esq.*"

"I, John," desire the election of Skinner:

"BENICIA, October 9, 1853.

"DEAR McGOWAN:

"I desire you to aid the election of J. S. Skinner as city physician all in your power. Say to Broderick that I am anxious for his election for reasons which I will explain to him. I will be down on Monday evening without fail. Truly yours, JOHN BIGLER."

The roughs do not want their leaders to fight. Vi Turner and J. F. Quin to Judge McGowan in relation to a proposed duel between Bagley and Casey:

"*N. B.—Private and confidential.*

"DEAR NED:

"We have been called on to act in the capacity of seconds in a duel that is to come off in the morning between Mr Bagley and Jas. Casey. To you, as the friend of Mr B., we now write, and if our former intimacy can guarantee the demand, we insist upon you lending your hand to the settlement of the same. From what we understand of it, it is a difficulty that can be settled without the least trouble. Take the advice of friends, though younger in years than yourself, that the settlement of this matter would benefit all parties interested. There is no necessity for any haste in this affair. Come in town with your friend and confer with us, and I am certain it can be arranged. Let me assure you that Vi and myself are equally friendly with one as the other. For your sake and ours come immediately on receipt of this. You shall not compromise yourself. Your friends,

"VI TURNER and JAS. F. QUIN.

"*To Judge McGowan.*"

How Ned kept his politico-pugilistic accounts:

Peter Whiteman, ...	$175	
Errickson, ...	20	
Small & Co., ...	160	Draft on Philadelphia dishonored.
Dick Howell, ...	130	" " " "
John Abrahams, ...	25	
Young Elder, ...	30	Philadelphians and Pennsylvanians
Irish Thornton, ...	25	that I have loaned money to, not one
Jim Galaway, ...	50	of which ever made the first offer, or
W. Williams, ...	25	ever will, to pay.
O. Bailey, ...	113	

Sowing the good seed at election:

"SAN FRANCISCO, September 5, 1854.
"Rec'd of Edward McGowan three hundred dollars for the county.
"$300. W. J. SWEASEY."

"SAN FRANCISCO, September 4, 1854.
"Rec'd from Edw. McGowan $150 for election purposes.
"$150. 2d Ward. THOS. M. CAHILL."

"SAN FRANCISCO, September 4, 1854.
"Rec'd from E. McGowan $150 for election purposes for 8th Ward.
"$150. 8th Ward. D. B. CASTRO."

"SAN FRANCISCO, September 5, 1854.
"Received of E. McGowan the sum of $150 for the Seventh Ward.
"$150. 7th Ward. PETER KENNY."

"SAN FRANCISCO, September 6, 1854.
"Rec'd of Edward McGowan $150 for the Third Ward.
"$150. DAVID SCANNELL."

"SAN FRANCISCO, September 6, 1854.
"Rec'd of Edward McGowan $150 for the Sixth Ward.
"$150. PETER VEEDER."

"SAN FRANCISCO, September 6, 1856.
"Rec'd of Edward McGowan two hundred dollars for Fifth Ward.
"$200. JACOB RITCHIE."

Ned neglects his little French girl:

"MY DEAR FRIEND:

"I suppose that you are very surprise, not see me since any days, but not you knows that Madame Dubucourt she as been very bad for me, an she says if I am going to see you the door should be shut me. Madame Dubucourt is

very jealous and sorry why anybody like me. I am been very sick by this conduct, an very sorry that you not come see me. You know my dear friend the affection that I have for you, and I suppose that you have the same for me. Any time that you call, I shall have very happy to see you; if you not come now I think you very bad for you, but I hope my letter find you the same for me as before. Your friend,

"*25 August.* LENNY."

Among the actresses Ned was a darling gay Lothario:

"PARIS, 3d March, 1855.

"*Edward McGowan, Esq.:*—

"MY DEAR FRIEND: Alone in my little parlor far away in this gay place I think of those who love me—and you are not forgotten.

"My eyes are still very weak, indeed, and pain me very much, or I would write you a long letter—all about my thoughts of you and other dear friends I left behind me in California, that blessed land of gold and good hearts! But it will not require many words to assure you of all the grateful remembrances I entertain of you; I often close my eyes and think I see you, every night, before the rise of the curtain, walking down the aisle of the parquet of the Metropolitan Theatre, a bill in your hand and looking so cheerfully at everybody near you as though you would say, 'Well! have you come to see my daughter play to-night?' Oh, those dear old happy times! Will they ever come again? Have you had any new pet yet since I left? I hope the artists who have followed me have not eclipsed me from your heart. It would give me pain to think so, for neither fate nor circumstance could change my thoughts of you.

"I have been in Europe now nearly five months; in company with my brother and sister I am now spending some time in Paris. I have seen Rachel—the EUROPEAN Rachel. I must not praise her, since everybody here says she bears such strong resemblance to me, and I might be thought vain did I speak my opinion of her. I am forced to confess that the resemblance between our styles of acting was so striking that I felt wonder-struck during the first act. But I can never hope to attain the excellence to which she has arrived, which is truly wonderful. Her acting is so powerful, it at first alarms you, then positively frightens, then subdues, then delights you. She goes to America, where I hope you will see her. Her style, however, touches the head, but never once the heart. The world here is all astir preparing for the World's Fair. But neither England nor France have any charm for me. I would rather pass a single year in California than bask among their beams forever.

"I am studying very hard in the sweet hope to be, some day, worthy of the good name which San Francisco has already crowned me with; it will give me great pleasure to return to you all once more and show you the good use I have made of my time; and then, judge, we will have a good long chat about old times. Will we not? Yes, indeed! Until then may God be with you; and believe me ever your grateful friend,

"MATILDA HERON."

Here is a specimen of Steve Whipple's dunning letters for money lost at gambling in his establishment:

"WEDNESDAY, August 16, 1854.

"*E. McGowan, Esq.*:—

"DEAR SIR: At your request, as conveyed to us by Doct. Parker, we have not called upon you for the balance due the house on your check, supposing of course that you would on Monday have met the same. That day, Monday, and yesterday having passed without our being able to see you, we are compelled to call on you for a settlement of the same to-day.

"Very respectfully, your obedient servants,

"WHIPPLE AND BURROUGHS."

CHAPTER XV.

ARREST AND EXILE.

Objection! Let him object if he dare.
Sheridan.

EARLY in the present century an English wine-merchant, John Dobell, wrote a book entitled *Man Unfit to Govern Man.* To have obtained a hearing in San Francisco shortly after the middle of the century, Mr Dobell would have had to make his title-page read *Man his own Master.* After the execution of Casey and Cora every honest man felt more honest, carried his head higher, and breathed more freely. He felt that he was again indeed his own master. The conspiracy of law and order was broken, but it was not yet eradicated. There was other work for the Committee to do. Society must be further sifted.

Idlers and criminals are the greatest curse entailed on society, greater than war, pestilence, earthquake, and famine; and to permit bad men and their crimes to multiply and go down interbreeding to posterity, such imposition falling always alone on the industrious and virtuous, is the greatest evil one generation can inflict upon another.

It was the bounden duty of San Francisco to arrest and eradicate the leprosy then overspreading her young institutions. Her citizens, represented by the tribunal in session on Sacramento street, had no right to permit the disease to spread and so transmit to their children, their fair inheritance, the pestilential carcass of its former self. And they did not; for on

their opinion they acted. A point was reached where a *laissez-faire* policy in matters pertaining to public weal could no longer be endured. The *laissez-faire* of the state government at this time was a *laissez-faire* which let alone the thief when he robbed, and his victim when he cried for justice; it was not the let-alone principle which gives to each citizen all the good he can get, leaving him to suffer such evils only as he brings upon himself.

And so thinking, they acted upon the only true principle, that the most merciful, not to say economical, way is to punish crime quickly, surely, and severely. Advocates of the abolition of capital punishment were requested to shift their sympathies from the murderer to the murdered. Letting them rest there for but a single moment, if they are the humanitarians they profess to be, they will say that the venomous reptiles of society should be exterminated, as settlers exterminate rattlesnakes and grizzly bears. Humane justice will punish severely, for severe justice is the most humane. And not only this, but it will seek to save the otherwise lost; it will cast down, but it will likewise lift up.

To the new order of things in this heterogeneous civilization the old worn-out machines of eastern traditions were ill adapted. Stronger and better fitted wheels of swifter velocity were requisite to keep pace with the new jurisprudence. Men tire of watching each other, of hiring their fellows to perambulate streets with bludgeons ready drawn for the hammering of refractory humanity, of watching political parties in belligerent attitudes snarling and glaring at each other lest one shall steal more than its share. It was not the people immediately who were responsible for it, but government, law, and law officials; yet after all it was the people. The moralities of mankind, like the moralities of nature, are pure and peaceable, and the masses, as a rule, are right. As a rule their law is nature's law, God's law. No more can the flower

thrive while nursing in its bosom the envenomed worm than can society prosper under customs oppugnant to nature's laws. For crime we are indebted, first to criminals, the abnormal element of society, the ignoant, vicious, wilfully wicked; next, to statesmen, governors, judges, lawyers, those who subsist on the labors of the people, pretending to punish vice, but in their selfish counsels as often fostering vice as punishing it; and last of all, the people, for permitting such things.

Out of an ignorant, irrational, or brutal society there does not spring a wise and humane government. Wicked men do not select their leader for his virtuous qualities. A good man will not accept office obtained through that hypocrisy and lying, that rousing of deceitful hopes and fostering of senseless prejudices necessary to his election. Nor is it in man, least of all in kings, but in nature only, that we may look for right or might divine. To nature we must go for law, for learning, for intellectual as well as for physical food.

So these popular-tribunal men concluded to work away for a brief space lustily, and give the city a moral scrubbing. Thus far the people were satisfied with their leaders, and were content to follow and obey these so-called autocratic traitors. Remembering a saying the Chinese have, that "the wise man does not speak of all he does, but he does nothing that cannot be spoken of," they were satisfied to know only results. Says the *Golden Era* of the 25th of May: "Were this executive committee not composed of the most respectable and honorable of our citizens, we might question the policy of veiling their actions from the scrutiny of the people whose province it is to approve or condemn them." But as they were safe men, the people did not fear to trust them, the journal goes on to say, taking a quarter of a column to say it in.

To the destruction of the aeries of these moral vultures the Committee then applied itself. A committee waited on the city police with an offer of three

hundred dollars for the arrest of McGowan, and two hundred dollars for the arrest of Wightman. A disclaimer was ordered published in the journals of the day "of the intention of this body to avail itself of the right of search, without the permission of occupants of houses or legal warrants," and no arrests were permitted to be made by members of the Committee without a warrant from the Executive.

Prominent among the birds of prey were Billy Mulligan, Dan Alrich, Bill Lewis, Yankee Sullivan, and others famous for doughty deeds perpetrated in defiance of law, and while yet law's most kindly ministers. Every one knew them to be guilty of criminal acts, and yet the law seemed powerless to reach them. Terrorism was their play. Prominent in all political matters, they held the polls at election, and often attacked, maimed, bruised, and abused all who opposed them. They levied black-mail almost at will, and when in drunken bravado they appeared on the street, quiet citizens were obliged to take themselves out of their way. And, indeed, if the law so desired, there was little use in arresting them.

While the Committee could not conscientiously disband leaving these social coyotes still prowling the streets, on the other hand they were resolved to inflict no punishment not authorized by the courts; particularly none should be capitally punished who would not under the law be subject to such treatment. And yet this chronic criminality must be checked. After much thoughtful consideration it was determined to adopt the plan of banishment, after trial and conviction, of notoriously bad characters whom the hangman could not legally reach.

While the men of law affected adoration for form, the vigilance party believed in the sacredness of human life. Thieves and murderers preying upon a people are bad enough, but their doings are far less injurious than the influence of those who live by poisoning the fountains of social morality, and quoting

tradition to sanctify their wickedness. In order to prevent the disintegration of society, the Vigilance Committee found it necessary to assume absolute power; and in the administration of justice they resolved to restrain the tendency toward excess which characterizes the possession of unlimited authority by constitutionally limiting its exercise. They confined the death penalty to the crime of murder, and adhered to this restriction during all their rule, although the interest of justice at times seemed to warrant its suspension. Banishment was the only punishment awarded the worst criminal against whom the crime of murder could not be proved. Banishment has a severe sound; but under the *régime* of the Committee it amounted to little more than allowing the criminal to select the city to which he would make a pleasant voyage, the association paying the expenses of the journey if he had not the money.

In most cases the expelled decided to go to New York, and were furnished passage by the regular mail steamers. The good accomplished was chiefly in making lawless characters understand that though they might successfully defy the law, there was in the community a reserved power which was absolutely irresistible, whose grasp might on the next occasion prove fatal.

One night about one o'clock the police were aroused by one who thought he had found McGowan's track in the vicinity of Washington street. During this time Pete Wightman was stowed under Folsom's stable; and there his ravens fed him until he effected his escape.

A committee of five on foreign relations was appointed to furnish transportation for those who might be requested to leave the state. Of all notorious characters a list was made, called the Black List, and orders were issued the 25th for the arrest of William Mulligan, Dan Aldrich, Bill Lewis, J. W. Bagley, Martin Gallagher, and Yankee Sullivan, and next day

the last three were brought before the Committee. The evening of the 27th they were tried, each on the individual merits of his case, and all having their counsel, with the privilege of summoning witnesses, as in trials for murder. And thereupon the following resolution was passed:

"WHEREAS, The evidence we have heard establishes conclusively that Billy Mulligan, Yankee Sullivan, and Martin Gallagher have for years been disturbers of the peace of our city, destroyers of the purity of our elections, active members and leaders of the organized gang who have invaded the sanctity of our ballot-boxes, and perfect pests to society; therefore

"*Resolved*, That William Mulligan, Yankee Sullivan, and Martin Gallagher be transported out of the territory of the United States at the earliest practicable moment, and that they be warned never to return to California, under penalty of death."

Orders were then issued for the arrest of Billy Carr, Woolly Kearny, Jim Burke, and J. P. Hickey; and on the 30th the two first named were in like manner sentenced to exile. Dan Aldrich was discovered soon after with his *inamorata*, secreted in Sacramento. A new order was issued for his arrest, and also for that of Edward Bulger.

She who called herself Mrs Sullivan sighed to see her husband in words like these:

"MAY 29, 1856.

"DEAR JAMES:

"I take my pen in hand to write those fue lines to you for I do not no wot to do for I have not got one cent in the world and theay will not let me come in to see you I have been three times to see if they would not let me in to see you; Dear James how are I to folow you When thay Seand you A Way My heart is almost broke Aboute you I wishe you to write me a fue lines out so that I can no wot to do I will wate wile youe rite me a fue lines

"So no More at preasent from your Affectionate Wife untill Death,

"EMILY MARY SULLEVAN."

Suddenly in the midst of these engagements the Committee was shocked by the announcement of an officer of police that Yankee Sullivan had committed suicide in his cell. An extra session of the Executive was immediately called and the matter investigated.

It appears that about six o'clock Saturday morning,

the 31st of May, Sullivan called the guard and requested a drink of water. He then related a horrible dream from which he had just awakened. He thought he had been condemned to die; that the last rites of religion performed, he had been seized and pinioned by the guards, taken from his cell, led to the fatal window, where the rope was adjusted round his neck; then, placed on the platform before the deriding crowd, the trap was sprung, and in the fancied agony of the last awful struggle he awoke. He was greatly excited. So strong a grasp upon his fevered brain had the terrible fancy taken that he could not drive it hence. The guard sought to pacify him, told him there was no danger of his being hanged, that at the worst he would only be expelled from the country, and that in another land he could reform and lead a life of virtuous industry. The unhappy man took the water offered him apparently relieved. But when two hours after the guard entered the cell with the prisoner's breakfast he found him lying on his back upon the bed in a pool of blood, with a frightful gash on the inside of the left elbow, dead. He was dressed in pantaloons and shirt, and near him, red with gore, lay the knife which he used to cut his food. The body was given to the coroner.

The cause of the melancholy event, it was thought, was the denial of stimulants to which the prisoner was almost momentarily accustomed. It was shown that drunkenness was his normal state, from fifty to eighty drinks a day being his customary indulgence; and when after incarceration tea and coffee were substituted, his nervous system sank, circulation became sluggish, and his mind gloomy. This lesson to the Committee proved profitable to the drinking proclivities of the remaining prisoners, who lest they should droop and kill themselves were ordered full rations of spirits. The enemies of the association were not backward in raising accusations of foul play against the Committee, accusing them of murdering

Sullivan in his cell, and like absurdities which are not worthy of refutation.

Sullivan was an English prize-fighter. The appellation 'Yankee' was given him from wearing in one of his great fights a handkerchief with the American flag painted on it. He was a Sydney convict who had escaped to New Zealand. There was no thought on the part of the Committee of punishment more severe than a free passage to wherever he wished to go out of the United States. Some said that he was slain in resisting his guard, but even the *Herald* declares: "We dismiss as entirely unworthy to be entertained, that the man has been assassinated."

Shortly before his death Sullivan made a confession, which brought to light some startling developments in regard to frauds at the Presidio polls. The publication of portions of the confession, with the names of the individuals mentioned left blank, was authorized by the executive committee, and appeared in the journals of June 2d. This confession was to the Committee of 1856 what the confession of Stuart was to the Committee of 1851. It introduced the crime-crushers at once to the mysteries of the ring, and gave them the cue to the campaign. As the confession is lengthy I can give only a summary of it:

The September previous Sullivan lived at the Presidio House, on the road to the fort. Election was held there, and the ballot-box for that precinct was kept in the hotel. Sullivan was one of the judges of election. On the morning of election day the agent of one of the candidates rode up and offered him five hundred dollars to bring in a majority for his friend, the money to be paid after election. The clerk, satisfied with the offer, proceeded to write out on the spot, and before the balloting, the return of the candidate; but Sullivan, knowing the man would not pay, declared himself incorruptible, and tore up the returns.

Another candidate offered three hundred dollars for an election. This one was good pay, for he held the

money in his hand, but he had treated Sullivan badly in 1850, and he should not have the office at any price. Then he goes on to say who bought of him an election, at what time in the day, and how much was paid for it. One office was sold for one hundred dollars, that is to say, so far as that precinct was concerned, and another for five hundred, for which Sullivan never received anything. Thus he went on at length describing corruptionists, exposing fraudulent schemes, and fighting his battle over again until to the light were spread systems and series of villainies unparalleled in republican governments.

And now from his tomb in the cemetery, near the old adobe church of Mission Dolores, the stone that marks his resting-place cries daily and nightly unto God for forgiveness on his enemies. Exceedingly charitable and Christian of the tombstone!

Charles P. Duane, surnamed Dutch Charlie, late chief engineer of the fire department, was arrested on Sunday, the 1st of June, and placed in garrison. Quite a little commotion was occasioned by this arrest. Charlie was always fond of a fracas. He was in the saloon of Fiske and Loring, on Clay street, at the time, when a vigilant officer entered and notified him of his errand. Duane dropped his dignity, flung aside his bravado, felt his courage flying in every direction into space: "O troublous times!" he sighed; "where shall the wicked find rest?" Thereupon, as if in an answer to an inspiration, he lifted up his heels and ran for the police office. Darting through an alley leading to Merchant street, at the end of it he encountered a body of armed men, who seized him. Duane made a desperate effort to shake them off, and shouted loudly to the police, but all in vain. Several of his friends were standing by at the time, but none of them interfered. They were learning discretion. Meanwhile the triangle struck three times; the guard was doubled, the cannon made ready, and mounted

men were stationed in the streets. But all passed off quietly.

Notice in words like the following was served on the banished either in writing or verbally. The example given is from a genuine document:

"EXECUTIVE COMMITTEE CHAMBERS,
SAN FRANCISCO, 6th June, 1856.

"*James Cusick:*—

"SIR: The Committee of Vigilance, after full investigation and deliberation, have declared you guilty of being a notoriously bad character and dangerous person, a disturber of the peace, a violator of the purity and integrity of the ballot-box, and have accordingly adjudged the following sentence:

"That you, James Cusick, leave the state of California on or before the twentieth day of June 1856, never to return, under the severest penalties.

"In witness whereof, the seal of the Committee of Vigilance is hereunto attached. By order of the Committee.

[SEAL] "No. 33, *Secretary.*"

Rodman Backus, the murderer of Oldman, as we have seen, was only too happy to escape the city. After undergoing the forms of a trial, and threading the labyrinth of law, assisted by the usual technicalities, subterfuges, and quibbles, he succeeded in quieting justice by a conviction of manslaughter and a sentence to two and a half years in the state-prison, and three thousand dollars' fine. For an aggravated case of deliberate murder, one would think this would have satisfied him. Not so. In his opinion the law was very unreasonable to punish him at all. So he appealed to the supreme court, and was in a fair way of soon being set at liberty. This was before the killing of King. Witnessing the uprising attending this and subsequent tragedies, Backus was led to believe that murder was becoming unfashionable in San Francisco, and that a murderer was safer between good brick walls than when mingling with such unreasonable and excited men. Consequently he withdrew his appeal; and never did convict more earnestly or honestly beg permission to serve his term than did Backus. Oh! blessed walls of San Quentin, through whose window comes the soft wood-scented air of San

Rafael, or the sterner passioned ocean wind from round Tamalpais, to the hunted murderer thy open gate was as the gate of heaven through which might be seen the eternal courts of rest!

Billy Carr kept a whitehall boat. His occupation was to convey passengers to and from vessels lying in the harbor. This gave him regular exercise, and kept the muscles of his arm in good condition for striking from the shoulder. Carr was king of the wharf-rats. But he aspired to something higher; the aspirations of his genius gave him no rest. Dray drivers had before now been seated in the gubernatorial chair, pimps had been placed on the supreme bench, and blackguards sent to congress; why should not he, an able and honest boatman, become great like the others? So he determined to turn a patriot. He would serve his country, lay down his life for her sacred institutions, if necessary, and be held in grateful remembrance ever after. He began in an humble way as early as 1852 or 1853, as convention delegate, doing fist duty at elections and burning his midnight oil over the intricacies of ballot-box machinery. One day, it was the 28th of May, 1856, about three o'clock in the afternoon, Billy was taking his customary constitutional at a well known political bar-room on Pacific street, when a man entered and approached him.

"May I have a word with you?" he asked.

Now if there was anything Billy despised it was to be disturbed in his potations; and to be disturbed by a stranger, by a respectable-looking stranger, in such times as these—to be requested, by one who apparently knew him, for a word in private—Billy didn't like it. He fidgeted and felt uncomfortable, and the vision of that first-ward ballot-box, of which he was inspector, and which on election night contained a third more tickets than there were voters in the ward, flashed across his brain.

"What do you want?" said Billy in a gruff, dogged tone, with apparently no intention of leaving the bar.

"I want you to go with me," replied the man, giving him an earnest, meaning look full in the eye.

Billy understood it perfectly; but surrounded by his friends, and seeing but one man who so persistently desired his company, he began to argue and to bully, when the messenger interrupted him.

"We will not waste words," he said; "you are wanted at the executive committee rooms. Twenty armed men are at the door. If you will go without disturbance, well; if not——"

Billy went.

Bright were the faces on Montgomery and Front streets when, on the morning of the 6th of June, it was known that the day previous an important shipment of scoundrels had been effected by the Vigilance Committee. Joy beamed on every countenance, and the sun seemed brighter and the air purer since the withdrawal of their hateful presence.

Six of them there were in this gang; and that their law and order friends might not be disturbed, a little ruse was practised by the Committee, which effected their embarkation with the utmost quietness and despatch. It had leaked out in some way that the cells of the Committee rooms were to be emptied that morning, and as the law and order party had been specially active of late, many thought there would be fighting; so that when the hour arrived the front windows of the Committee rooms looked out on a dense mass of excited human beings.

This would not do. It was impossible to tell of what material that crowd was composed. A failure or mistake now might seriously mar their work and destroy their further usefulness. The hour arrived. Six cutthroat looking men, with slouched hats half concealing their villainous features, were brought down the front steps by a strong guard and marched

off to Vallejo-street wharf. As a matter of course, the crowd followed; the streets round the Committee building were completely emptied, and a Sabbath stillness pervaded the neighborhood. Arrived at the foot of Vallejo street, on perceiving no boat in readiness the crowd became critical, and thought the managers of the affair had bungled it. They were becoming impatient of the delay, when the wheezy little old tug *Hercules* hove in sight, coming from the direction of Rincon Point. "She'll fix 'em," said one. But the tug passed on toward the Golden Gate without stopping, only some thought they detected signals between a strange-looking party on board and the prisoners' guard on shore. As the tug rounded Cark Point, the guard with a broad grin unbound their prisoners and let them go. These were not the real villains; they were six good vigilants transformed with no small difficulty into temporary scoundrels for the purpose of drawing the horror-hungry populace from the scent. As soon as the joke was comprehended, something between a cheer and a groan burst from the crowd, which instantly melted into the several streets leading from that locality.

They were right, those who fancied some significance in the signals between the tug-boat and the shore; for no sooner had the streets round the Committee rooms been cleared by the manœuvre than the true prisoners were brought out by a back passage, brought out so secretly that the guard at the front passage knew nothing of it, and quietly put on board the *Hercules*, ready and waiting with steam up. Then they were off in an instant. Three of the immortal six, Billy Carr, Martin Gallagher, and Edward Bulger, were placed on board the bark *Yankee* and sent to the Sandwich Islands. The other three, Charles P. Duane, William Mulligan, and Woolly Kearny, the tug retained until the mail steamer *Golden Age* stopped just inside the heads, and they were shipped

for Panamá. Duane and Mulligan ranked among the aristocracy of crime. They objected to being classed in the same category as that of Kearny, who was a common thief. Very free was Duane with indignant bravado, swearing as they hoisted him up the steamer's side that he would yet return and be avenged. Mulligan was sad at heart, and penitent withal. "I know," he said to one of the guard, "that my punishment is just. I deserve it, and more. I find no fault with the Committee. They are all respectable gentlemen, and are acting rightly, and they ought not to stop with what they have done. There are a hundred others as bad as I, that deserve the same treatment. There is not an officer in the city or county of San Francisco who is legally elected. They are all thieves from the mayor down, and should be driven from office. I shall hope to hear that they have all been made to resign."

Before the sailing of the steamer of the 20th of June the Vigilance Committee rooms were transformed into a picture gallery. An artist was engaged by the Committee to daguerreotype the faces of the prisoners, that their likenesses might be sent with them to the chiefs of police of other countries, that they might be on their guard. Some of the more ill-favored objected, and intentionally changed position while undergoing the infliction, thus spoiling several sittings. Finally, warned by their guard that unless they were tractable a worse fate would befall them, they submitted. Dan Aldrich was arrested on the night of the 22d of June.

About one o'clock on the 8th of July Chris. Lilly, a noted pugilist of San Mateo celebrity, was standing in front of the Cosmopolitan saloon, on Montgomery street, when a member of the vigilant police, having a detachment of men at his call, approached him and requested his presence at the Committee rooms. Chris. said he would go, but he did not want a crowd at his heels. Accordingly he was marched quietly down to

Sacramento street and placed in one of the rooms vacated by one of the recently exiled. Two days after, on giving the Committee satisfactory assurances that he would leave on the steamer following, his liberty was given him that he might attend to some business before quitting the country forever.

The Committee's black list on the 20th of June, one month after the death of James King of William, stood thus:

James P. Casey and Charles Cora, executed; Francis Murray, *alias* Yankee Sullivan, committed suicide; Charles P. Duane, William Mulligan, and Woolly Kearny, shipped on board the *Golden Age;* Billy Carr, Martin Gallagher, and Edward Bulger, sent to the Hawaiian Islands. Jim Burke, *alias* Activity, Pete Wightman, Ned McGowan, and Jim White, ran away; John Crowe, took passage by the *Sonora;* Bill Lewis, Terence Kelly, John Lawler, T. B. Cunningham, Alexander Purple, James Hennessey, Tom Mulloy, Frank Murray, Jack McGuire, William Hamilton, and Philander Brace, shipped on the *Sierra Nevada.*

J. W. Bagley and James Cusick were ordered to leave, but refused to obey. The latter fled to Sacramento and took refuge under gubernatorial wings. The expatriated three by the *Golden Age* were steerage passengers, but Duane was taken from his humble quarters by ex-governor McDougal, who shared with him his state-room and treated him with distinguished consideration.

Abraham Craft was arrested the 21st of July in a gaming-house, next to Maguire's old opera house, by Durkee. Craft was a short-card thief and a bad fellow upon principle. William McLean, whilom a city official, was arrested the same day. Once when judge of election at the Presidio precinct, McLean altered his returns on the way to the city hall, making himself supervisor.

Notice was given J. D. Musgrove, formerly super-

visor, and the third holding a seat in that body from precincts outside the city limits who had been expelled by the Committee, was notified on the 28th of August over the signature 'No. 33, Secretary,' to leave the state on or before the 20th of September, or subject himself to the usual penalty.

Mike Brannagan was a ballot-box stuffer and a bad character generally. He drove a hack, and his stand was on the Plaza. His arrest was made by John L. Durkee, being his first job after leaving the city police and joining the vigilants. In making arrests, as in everything else, there are hard ways and easy ways. Durkee chose the easiest way; and being a man of sense and discretion, he knew the easy way when he saw it, which not all men do know. He thought it one to justice and mankind, when vigilance wanted Mike, whether vigilance should go to Mike or Mike should come to vigilance. Mike's stand was opposite the police prison, the rogues' haven of rest, with its attendant ministering spirits. The American Hotel was just round the corner from Fort Vigilance. To request Mr Todd, a respectable young married man, to engage Mike to call at the hotel to drive his wife to the steamboat, was a quiet way of bringing Mike away from the moist airs of the police into the lighter, drier, and more wholesome atmosphere of vigilance. Mike departed by the *Sonora* the 15th of August; Craft and McLean by the *Golden Age* the 21st of July; Chris. Lilly by the *Sierra Nevada* the 15th of August.

They of the flush times would have their practical jokes, no matter how serious the business in which they were engaged. One night there was an arrest to be made. The order was written out and signed by the terrible symbol 'No. 33, Secretary,' when Bossange begged command of the party. It so happened that Bluxome was indebted to Bossange for some prank played on him, and the former thought it time to

liquidate. Bossange, being a Frenchman, was not so familiar with Californian English as with that found in popular phrase-books; though bar-room idioms were usually not the last for foreigners to learn.

"All right," said Bluxome, as he filled the blank in the order with the name of his friend Bossange, "all right; the man's name is Toddy. He is usually seen loafing at the bar-room of the Union Hotel."

Meanwhile Bluxome notified the barkeeper, who, it happened, was a personal friend of Bossange. Putting on an air of nonchalance deemed necessary in trapping keen-scented game, Bossange strolled up to the bar, his men all alive in their watch at the door.

"I want one Toddy," whispered Bossange.

"Certainly," replied the barkeeper, "which will you have, brandy toddy or whiskey toddy?"

One night an expedition under Captain Burns was sent to arrest Cunningham, coffin and ballot-box stuffer, who once attempted to join the Committee. Among the vigilants was a Dutchman weighing two hundred and fifty pounds. The arrest was properly made, though not without resistance, and the cormorant carried off; but as the captors were descending the stairs the female of the premises fired at them a shot which took effect in the Dutchman's back. Taken to the Committee rooms, the sufferer was laid out on a table face downward. As the surgeon stood over him brandishing his carving-knife, the victim, nothing intimidated, turned up his fat, flabby face and remarked to the doctor, "I wouldn't care a damn about it if I hadn't been shot in the back, and that by a woman!"

CHAPTER XVI.

DECLARATION OF WAR.

Cethegus, Catiline! whose ancestors
Were nobler born, were higher ranked, than yours?
Yet ye conspired, with more than Gallic hate,
To wrap in midnight flames this helpless state,
On men and gods your barbarous rage to pour,
And deluge Rome with her own children's gore.

Juvenal.

When so good a man as General Sherman, a man so full of noble qualities, and afterwards occupying so warm a place in the hearts of his countrymen—when such a one scatters abroad loose statements involving the good name of other good men, we should perhaps show more charity to exasperated southern chivalry.

At the request of Justice Field, of the United States supreme court, General Sherman wrote from St Louis, the 25th of February 1868, a letter detailing his Californian experience of 1856, which was published in the *Overland Monthly* of February 1874, and reproduced in substance in his *Memoirs*. This document abounds in incongruities and misstatements, a few of which I will point out: Among other things, he asserts that without a standing army the American people would become a mob, which language many of his best friends would dissent from. Surely if General Sherman had considered for a moment he never would have placed a free people in the anomalous position of holding over themselves a guard of hired soldiers to keep themselves from insurrection! Least of all do the American people require so to keep themselves. Was it a mob General Sherman led

through Georgia? Do the transactions of the Vigilance Committee of 1856, as recorded in these pages, read like the doings of a mob?

He states further that James King of William "turned against his old associates" when he exposed the rascality of I. C. Woods, and Adams and Company, "and against Woods especially, who by public clamor became alarmed for his personal safety and escaped the country." Now no one knew better than Sherman that King was a single-minded man and Woods a trickster. If circumstances should throw the general unwittingly among thieves, would he call it turning against his old associates when he exposed them? Besides, who ever heard of an honest man in America becoming alarmed for his personal safety and escaping a country to get away from a newspaper? Again he affirms, "a war grew up between these two evening papers and their editors, King and Casey." This is not true. There never was war between the papers. King exposed Casey for stuffing the ballot-box which made him supervisor. He never cared a fig for Casey or his paper. Three lines after, Sherman says: "King sent to New York and prepared the record of a case in which Casey had been convicted of robbing the room of his mistress." King did nothing of the kind. A member of Casey's own party, with whom he had quarrelled and exchanged pistol-shots at a primary election, procured the evidence against Casey, as we have seen. Sherman goes on to say that "King treated him rudely," as if that excused Casey in killing him. If it did not, it being "no unusual thing at that time" for one man to shoot another surely would exculpate him. "Casey then told him he would shoot him on sight." Casey told him nothing of the kind; there were two listeners to the conversation in the adjoining room, and we know what King said. King "started for his dwelling on Stockton street," continues this veracious writer. Mr King lived on the corner of Mason and Pacific streets.

Next are three misstatements in a single short sentence: "Several people who happened to be near ran up, caught, and carried him"—he was not carried—"into the office of Wells, Fargo, and Co."—it was the Pacific Express Company—"and laid him on the counter." Mr King was never put upon the counter at all. The newspaper press, he says, all but the *Herald*, "became in the highest degree inflammatory, and drowned all reason and argument." That is to say, all reason and argument of the Sherman order. All the people, all the newspapers were fools; only Sherman was wise. "King died the next day, Friday, I think, and his funeral was fixed for the Sunday following." Mr King died on Tuesday and was buried on Thursday. He makes the execution of Casey and Cora take place on the day of their seizure, within the hour, almost, that they were taken from the jail, when there was an interval of four days. "Everybody supposed that when this funeral was over, the matter was at an end; but to our surprise the Vigilance Committee maintained its organization." "Everybody" was Sherman, Johnson, and Garrison. "While the better elements of society were at work intent on their own personal affairs," the general goes on to say, "the idle and vagabond sought the power in existence for an easy support, and through the Vigilance Committee they became what our ward politicians are at all times. Even Sydney convicts became judges and constables, and sent around San Francisco their absurd writs, with a big all-seeing eye impressed thereon as their great seal." That is a falsehood; and I cannot see, even though uttered by a general of the United States army, how it can be otherwise than wilful and malicious. "This went on from month to month, and none of us knew who was our king, whether the pack of fellows who sat at midnight on Front street," etc. It was not Front street, but Sacramento street; and as if this were not bungling the locality enough, in his *Memoirs* he calls it Clay street. Now, is General

Sherman true, manly, honest? does he mean what he says when he stigmatizes the Committee thus? The fact was never questioned that they were San Francisco's best men. Sherman as a banker knew them to be as a class infinitely better men than those of his party. Is it honorable, is it gentlemanly, is it decent, for him to employ such terms in speaking of such men? "In a day or two after this"—it was the same day—"Judge Terry of the supreme court made the writ commanding the sheriff to bring before him the body of Maloney"—Billy Mulligan was the man. "This writ was put into the hands of a deputy, who tried to enter the rooms of the Vigilance Committee on Front street"—Sacramento street—"but was kicked out." He was courteously invited to enter, and did enter, and was not kicked out. Besides, how should a man be kicked out of a place which he tried to enter and could not!

Thus the letter goes on to the end. The misstatements may some of them appear trivial, but in this connection they are not so. Sherman has made statements impeaching the integrity of California's purest and best citizens, statements which are either true or false, and which were made either wittingly or unwittingly. To say the least the assertions of one so lax in language should be taken with allowance. The general is popular in California, as in other states, and his friends are disposed to pass his random remarks charitably, as the harmless offhand way of the soldier. But although I entertain personally none but the most kindly sentiments toward him, and have great respect for his military success, I can speak of him in this connection only as he is, and that according to my best judgment. So judging, General Sherman in this letter is either prejudiced, ignorant, or false, in either of which event writing is no credit to him.

In a subsequent letter, illustrious also for its lack of sound judgment, Sherman says, "You and I be-

lieve that with good juries, Casey, Cora, Hetherington, and Brace, could all have been convicted and executed by due course of law." Most assuredly they could. A child could fathom that assertion. Good juries could convict and execute four murderers. But where were good juries to come from when the sheriff, friend and associate of the prisoners, had the summoning of them? Certainly they could have been convicted; but ten thousand men each as capable of determining the chances as Field or Sherman did not believe they would have been convicted. "You and I believe," the letter continues, "that San Francisco had no right to throw off on other communities her criminal class, and that the Vigilance Committee did not touch the real parties who corrupted the legislature and the local government. Again, if the good men of any city have the right to organize and assume the functions of government, the bad men have the same right if in the majority."

We notice now the "pack of fellows" are "good men," and must infer in U. S. general-in-chief phraseology, packs of fellows must mean good men. I have before stated that these criminals were not bred on California soil, were no outgrowth of California society, were never invited hither, came for no good purpose. They were old offenders in every instance, generated in the pestilential purlieus of older cities, and San Francisco had the right to drive them out. As regards the next assertion I confess my inability to fathom the general's meaning. If the ballot-box stuffers, primary election fighters, if Ned McGowan, Casey, Sullivan, and that class were not corrupters of government, I am at a loss to know who were. One thing I know; that before the organization of vigilance the local and the state government were notoriously corrupt, and that for ten years after the disbandment municipal affairs were singularly pure. To the truth of this assertion I can produce the records with hundreds of witnesses behind them.

Lastly, the general seems to forget that in our government the majority rules, the majority have the right to rule, and if the majority be bad, as is too often the case, the bad have the right to rule.

Not being familiar with the incidents of General Sherman's life I am unable to test the veracity of his *Memoirs* in any other part than that which relates to California; but if in other parts it is as crammed with misstatements as in that which relates to the Pacific States it will be handed down to posterity as a marvel of error and prejudice. One may take by way of illustration a sentence almost at random, as the following: "In July"—it was in June—"1856, they arrested Chief Justice Terry"—he was not chief justice, but associate justice of the supreme court—"and tried him for stabbing one of their constables, but he managed to escape at night"—neither Terry nor any other prisoner ever escaped from this Committee. He was discharged and escorted by the Committee beyond the reach of danger from the populace who were even then eager for his punishment—"and took refuge on the *John Adams*. In August"—it was in July—"they hanged Hetherington and Brace in broad daylight, without any jury trial." They had a full and fair trial, with the entire Committee as a jury. Sherman may be a good soldier, but he made a great mistake when he undertook to write a book. It makes little difference to the reader whether current and authenticated facts are misstated through ignorance or intention. Of a truth I never saw so great a man with so little common-sense!

Let us briefly review the political situation, and the relations of federal, state, and municipal authorities. The know-nothing party had at this time the control of the state, but the administration was composed of weak men. Shortly before the organizing of vigilance in San Francisco, Sherman, then resident partner in the banking-house of Lucas Turner and Company,

had been made major-general of the second division of militia embracing San Francisco, by the governor of the state, J. Neely Johnson, though he did not formally accept until after the organization. General John E. Wool then commanded the military department of California with his head-quarters at Benicia. Captain D. G. Farragut was in command at the Mare Island navy-yard. The U. S. ship *John Adams*, E. B. Boutwell captain, lay at Sauzalito. Mr Van Ness was mayor of San Francisco.

There was at this time in the state militia a company of artillery with four guns, Captain Johns, and three infantry companies, most of whose men soon passed over to vigilance. Sherman was one of the *posse comitatus* summoned by the sheriff to keep the prisoners, and spent one night in jail. E. D. Baker was another; Thornton, he with but one arm, Peachy, and Billings, lawyers, were others. On the night of his arrival Johnson telegraphed Sherman to meet him at the boat, which he did in company with C. K. Garrison. In his letter Sherman says they proceeded immediately to the jail; in his *Memoirs*, to the International Hotel. It makes no difference where they went; I only speak of it as showing the extreme looseness of the general's statements. Sherman then recites the interview at Turn Verein Hall and the result in which by implication he charges Coleman, Truett, Smiley, Arrington, and the rest with treachery and falsehood.

I cannot believe that so vital an error at such a conference could arise unwittingly; that a number of chief officials could meet a number of chief merchants for the purpose of arranging a very simple affair; that an hour and more could be occupied in deliberation; that discussion on both sides could be ample and general, and that after all the very point in question, namely, whether or not the Committee should stop where they were and take no further steps toward seizing and executing Casey, could be totally misun-

derstood. There was wilful prevarication somewhere; it is not reasonable, where all the mental faculties of keen and powerful minds were concentrated upon a single point, to account for the difference on the ground of stupidity. That subterfuge and falsification should rest at the door of the Committee I do not deem right; because, first, the members of the Executive were incapable of such conduct; secondly, they were incapable no less of being mistaken on the very question which brought them together than of wilful false promising; thirdly, they knew it to be beyond their power to keep such a promise; they were not the people, but only the mouthpiece of a mighty power which would not be further stayed by words; and lastly there was not the slightest interest or advantage to them in the alleged deception. Such is my opinion after a candid study of the subject; the reader may believe as he pleases.

Sherman and Johnson witnessed the seizure of Casey and Cora from the roof of the International Hotel. After the execution the two men returned, one to Sacramento and the other to his banking, both in deep disgust, and both deeming the affair over. And so it would have been in a few days more if the now angry governor had not been stirred to overt acts which placed it beyond the power of the Committee to retire without the loss of that wholesome influence which they had met to exert. This they would not do; the principle of vigilance they would not, could not abandon.

All was not harmony in the ranks of law and order. There were many of his own party, shrewder, wiser men, who took exception to the governor's concession in admitting the vigilant guard within the jail walls. And herein is my solution of the so-called misunderstanding. The governor, becoming dissatisfied with his bargain, or rather, seeing that he was compromised, and even made contemptible in the eyes of some

thereby, attempted subterfuge, accused the Committee of falsehood and treachery, and called on Sherman to witness the truth of what he said. The latter newly appointed, and willing to conciliate, tacitly acquiesced, until finally, hammered into heat by subsequent discussion, the false assertions of the party assumed the hue of half-reality in the general's effervescent brain, and fancies reiterated became clothed with the reality of fact. I may be wrong, but I see no other explanation at all consistent with reason which is half so charitable.

Pricked by friends and partisans who saw or fancied they saw their vocation slipping from under them, Johnson concluded to make another effort to crush rebellion, an effort this time more direct and pronounced. Among those who exercised a marked influence over the governor was David S. Terry, justice of the supreme court of the state of California, an able jurist of no inconsiderable will and courage, honorable according to certain ideas of honor, chivalrous after the manner of southern fire-eaters, with a cultivated mind, and, when he chose, engaging manners.

Judge Terry represented a class, the extreme and rabid law and order. It was the class denounced by King, who was as rabid on the side of public morality and purity. The law and order men, in their own estimation, were the cream of society, the salt of the earth, very honorable and high-minded gentlemen, by birth and education infinitely superior to Boston codfish dealers, and the natural rulers of America. It was with pleasure that these marked men saw King slain, and the slayer would have been safe enough in their hands. True, their passions began to warm as they saw the impudent rabble rise in defiance of majestic law, and when they dared desecrate the jail, try, sentence, and execute men in defiance of law, their blood boiled excitedly, and they swore that such things should not be.

So Terry planned a campaign which should annihilate

them, or send them slinking to their holes. The supreme court would issue a writ of *habeas corpus* for William Mulligan, then in the hands of the stranglers, which writ would of course be denied. The authority of the state being thus set at defiance, application for aid would be made to General Wool and also to Captain Farragut at Mare Island, who would surely not refuse it. Further than this, to aid in pressing the issue on General Wool, the militia should be enrolled and the governor should issue a proclamation declaring the city in a state of insurrection. There would then be apparently something more in the effort than the gratification of the personal views of the governor and the political spite of the judge; something more to justify the federal authorities in arming one part of the citizens of San Francisco to shoot down another part.

All things having been properly arranged at Sacramento Terry went down to San Francisco the 30th of May to attend to the *habeas corpus* matter, while Johnson with his secretary of state stopped at Benicia, telegraphing Sherman to meet him there. Though the *habeas corpus* had not yet been served nor the proclamation issued, it was deemed advisable to see General Wool at once, that they might know what to depend upon.

Mark now this interview and the result, and we shall see a performance somewhat similar to that which was acted at Turn Verein Hall and subsequently. The governor and his secretary and general found Wool at his office writing. The state of affairs was discussed. Sherman agreed that if Wool would give him arms and ammunition out of the United States arsenal at Benicia, and if Farragut would give him a vessel, he would enroll volunteers, bring Wool's arms in Farragut's ship to San Francisco, arm his men, take possession of a thirty-two-pound-gun battery then at the marine hospital on Rincon Point, order the Vigilance Committee to disperse, and arrest

the leaders, or if submission was refused would open fire on the inhabitants.

Sherman thought that Wool was struck by the beauty and perfection of the plan; it was simple and displayed well the martial traits of the new commander. But the old general was reticent. He did not think after all that San Francisco should be destroyed because her best citizens were earnestly endeavoring to cleanse the city of her moral and political impurities. General Wool talked with his visitors about their proclamation and their *habeas corpus;* next morning he inspected with them the arsenal where were four thousand muskets brought out in the *Lexington* round Cape Horn in 1846. Sherman pointed them out to General Wool and said that those would answer very well.

From all that transpired on that occasion Sherman inferred that General Wool would furnish him the arms. The party then drove over to Vallejo, crossed to Mare Island, and calling on the commander stated their errand. Farragut replied that he had no authority to take part in civil broils, that he doubted extremely the wisdom of their proposed step, and that he would lend them no assistance. The sloop *John Adams,* after certain needed repairs were made, might drop down abreast the city and there lie for moral effect, but nothing more. Sherman concluded he could seize one of the Pacific Mail Company's steamers and use it for his purpose.

The governor's party then returned to Benicia, and in a second interview with Wool, Sherman asserts that Wool positively promised that in case the *habeas corpus* was served and refused, and the governor issued his proclamation ordering the insurgents to disperse, and failed, and they should then call out the militia, on his, Sherman's, requisition, approved by the governor, he, General Wool, would order the issue of the arms. General Wool as positively asserts that he never made such a promise.

When we hear a person complain of being cheated at every turn, instinctively we avoid such an one lest he cheat us. When we hear a man accusing good men about him of dishonesty, we naturally conclude such an one is not very honest. Men who talk down the chastity of women are sure to be unchaste; and women who accuse their sisters of glaring faults we may be sure are most faulty in those respects themselves.

Now is it not a little singular that Johnson and Sherman immediately after their interview with the executive committee, should charge them with falsehood; that immediately after their interview with General Wool they should charge him with falsehood; that immediately any one who took part in, or sympathized with, the vigilant movement became *ipso facto* a villain, and that all journals that favored vigilance were ribald and mendacious? "Lord, Lord," with Falstaff cries Sherman, "how the world is given to lying! Coleman lies, Wool lies, everybody lies!"

When on Saturday the 31st of May Deputy Sheriff Harrison presented himself at the door of headquarters with a writ of *habeas corpus* which he wished to serve on William Mulligan, the Executive being in session at the time, Mr Dempster moved that the police in connection with the grand marshal have power and instructions to remove immediately the prisoners from the building for a few hours. The prisoners were disguised and removed. Mr Smiley then notified the sheriff's officer that he might search the premises. Mr Mulligan was not to be found. Mr Harrison, however, readily understanding affairs, returned the writ endorsed to the effect that he had been prevented from serving it by a body of armed men. Throughout the whole movement it was the earnest wish of the Committee to avoid collision with the authorities, or in any way to humble or bring discredit on law and good government.

To this end on the 20th of May the following course had been adopted:

"That a committee of three be appointed to wait on the governor of this state, and on the mayor, and assure them that this Committee have no desire or thought of interfering with the regular discharge of their duties, and only desire to take cognizance at present of outrageous cases of crime and rowdyism which the laws have been tardy in executing or cannot reach; that we do not encroach on the regular execution of law or the maintenance of order, provided the laws be enforced or carried out, but we desire peace and order, and it is that consummation we are aiming at, and would be pleased to see all legally constituted authorities proceed in civil or criminal cases as though this committee were not in existence. We have not nor do we desire to encroach on the civil authorities whenever they are properly discharging their duties."

Terry retired to Sacramento wrathful; and from Benicia Johnson returned to the capital and Sherman to San Francisco.

In the journals of June 4th appeared the following general orders. First were given extracts of an act concerning the organization of the state militia passed April 25, 1855, signed and certified by J. W. Denver, secretary of state. Then came the following order from the governor and commander-in-chief to William T. Sherman, major-general commanding the second division of California militia:

"EXECUTIVE DEPARTMENT, SACRAMENTO CITY, Cal., June 2, 1856.

"SIR: Information having been received by me that an armed body of men is now organized in the city and county of San Francisco, in this state, in violation of law, and have resisted the due execution of the law, especially by preventing the service of a writ of *habeas corpus* duly issued, and is threatening other acts of violence and rebellion against the constitution and laws of this state. You are therefore commanded to call upon such number as you may deem necessary of the enrolled militia, or those subject to military duty; also, upon all of the volunteer or independent companies of the military, within the military division under your command, to rendezvous at such time and place within the county of San Francisco as you may deem necessary and proper to aid the civil authorities, especially the sheriff and his deputies of said county, in enforcing the laws and rendering obedience thereto, and with such forces as you may be able to command, to aid and assist the enforcement of the laws, and the service of such legal process as may be required of you by such officers of the law as may command your aid. In the organization and equipment of such militia force, you will be governed by the law and regulations now in force.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON."

Next was the general order of the commander of militia:

"The officers commanding the volunteer and independent companies of this city will proceed forthwith to fill their companies to the highest standard, and will report in person the strength and names of the members of their companies to General W. C. Kibbe, adjutant and quartermaster general, at the recorder's court-room, city hall. The companies will hold themselves prepared to assemble at such places as may hereafter be indicated. All enrolled members of these companies are hereby commanded to report to their respective captains or commanding officers, who will report the names of all who refuse to obey, with such evidence of their disobedience as will bring them within the provision of section two of the foregoing act of the legislature. All citizens of San Francisco County, between the ages of eighteen and forty-five years, not members of the regularly enrolled volunteer or fire companies of the city, or not otherwise exempt from military duty, are hereby commanded to enroll themselves into companies of from fifty to one hundred men, to elect from their own number a captain, one first lieutenant, two second lieutenants, four sergeants, and four corporals, and to agree on a place of rendezvous, in case their services are called for. The captain or other commanding officer will prepare a roll of the names of the members of his company and the place of rendezvous, and will deposit the same with Adjutant-general Kibbe, at the recorder's court-room, city hall. Parties refusing so to enroll themselves are brought within the provisions of article twenty of the act before named. Citizens so enrolling themselves for future call are requested not to suspend their usual business, only to hold themselves prepared for service in case of further orders. Should they be called into the service of the state, arms and ammunition will be provided for them. The major-general commanding takes this occasion to say that the troops to be organized under this call have nothing to do with the exciting issues of the past two weeks. The only question is, shall the laws of the state of California henceforth be sustained? All violence of act or language is to be deprecated, and no force or threats must be used without my orders. The good citizens of San Francisco should reflect that we all hold our lives and property by force of law, and that a forcible resistance of the law does not end with the case in point, but may rise up against ourselves in some other and less pleasing form, and may injure our reputation in other states, where the evils we complain of are not felt. Civil war, or the array of armed citizen against citizen, is too horrible in its consequences to be spoken of, and it is to be hoped that all good citizens will forthwith return to their business, and cease any display of force or resistance to the regular operations of our courts of law.

"W. T. SHERMAN, *Major-general.*"

Then follows the proclamation of the governor:

"EXECUTIVE DEPARTMENT, SACRAMENTO CITY, June 3, 1856.

"WHEREAS, satisfactory information has been received by me that combinations to resist the execution of legal process by force exist in the county of San Francisco, in this state, and that an unlawful organization, styling them-

selves the Vigilance Committee, have resisted by force the execution of criminal process, and that the power of said county has been exhausted and has not been sufficient to enable the sheriff of said county to execute such process. Now, therefore, I, J. Neely Johnson, governor of the state of California, by virtue of the power vested in me by the constitution and laws thereof, do hereby declare said county of San Francisco in a state of insurrection, and I hereby order and direct all of the volunteer militia companies of the county of San Francisco, also all persons subject to military duty within said county, to report themselves for duty immediately to Major-general Wm. T. Sherman, commanding second division California militia, to serve for such term in the performance of military duty under the command of said Sherman until disbanded from service by his orders. Also that all volunteer military companies now organized, or which may be organized within the third, fourth, and fifth military divisions of this state; also all persons subject to military duty in said military divisions, do hold themselves in readiness to respond to and obey the orders of the governor of this state, or said Sherman, for the performance of military duty in such manner and at such time and place as may be directed by the governor of this state. I furthermore order and direct that all associations, combinations, or organizations whatsoever, existing in said county of San Francisco or elsewhere in this state, in opposition to or in violation of the laws thereof, more particularly an association known as the Vigilance Committee of San Francisco, do disband, and each and every individual thereof yield obedience to the constitution and laws of the state, the writs and processes of the courts, and all legal orders of the officers of this state, and of the county of San Francisco.

"J. NEELEY JOHNSON."

The governor's *casus belli* rested on a false and flimsy foundation. The proclamation was condemned by all, except the more rabid of the law party, as bellicose and dictatorial, and it tended only to establish the Committee more firmly than ever in their determination. It forced them to prepare for self-defence, to strengthen their position, and to exercise if possible greater vigilance against surprise. It won for the Committee many friends throughout the interior, among men who saw that party and passion had taken the place of principle in the governor's breast, who saw that but for this ill-advised step there would have been but little further excitement or trouble. There was not the slightest necessity for interference. The courts were all in session; neither business nor pleasure was interrupted; the wheels of government were running smoothly; the vigilants

were doing everything in the power of man to assist the law, often helping officers to ferret crime and leaving the criminal in the law's hands. And further, if it was not a serious political blunder, it was to say the least ill-advised and ill-opportune. A call at that time for the militia to invade San Francisco was like the summoning of spirits from the vasty deep; the governor might cry until his throat should split, there would be few to answer.

The Committee would lay down their power the moment their work was done, and no attempted coercion would make them do it sooner. This the governor, judge, and general knew to be true, for of such they had been assured by men whom they could but believe. But then it would look so meanly in pretentious law and blustering military to slink back into place tamely permitting the people to execute a duty which they were unable to accomplish. No, they must have a cowardly fling at their benefactors if only as a manifestation of belief in the existence of their own courage.

Little fear was entertained from this inconsistent action of the governor and the general of militia—inconsistent in two points; first, the governor had held back and given the Committee full sway for a fortnight, permitting them to become thoroughly organized and firmly established before taking any steps to put them down, and secondly, in the governor's stating in his order that information had been received by him, etc., and the general's saying that the troops to be organized under his call had nothing to do with the exciting issues of the past two weeks. The people, however, were not frightened. There was little danger of civil war, of arraying one part of the people in open hostility to the other part. That this man was called governor and that man general did not make an army; that one cried blood! and the other damnation! did not annihilate the organized virtue and intelligence of San Francisco, which was

fully prepared to wade through real blood and lay their lives if necessary upon the altar of outraged justice. If this governor and this general waited for the people to enroll themselves in their behalf, they would have long to wait.

Here is the advice of the Sacramento *Union*, a conservative and influential journal: "It has been proclaimed that all persons liable to do military duty should hold themselves ready to march at the command of the general-in-chief. Our advice to all such persons is to do as we intend to, remain at home and attend to our own business."

It seems that these officials had yet to learn the rudiments of our government. It seems that they supposed that laws could be here enforced by armed hirelings against the will of a majority of the people; that American freemen, with arms in their hands, were to be intimidated by those whom they had clothed with office; that Californians were as susceptible of despotism as Russian serfs; that because Louis Napoleon backed by a large standing army took the French by a *coup d'état*, they could take the San Franciscans in like manner.

"There is no sufficient cause to justify a resort to the military arm," says the editor of the Sacramento *Union* in his issue of June 5th. "There is no insurrection in its true sense in San Francisco. The people have declared war against ballot-box stuffers, thieves, felons, and perjured villains; they ask to be permitted to send such cattle out of the community. Beyond that they have in no instance interfered or offered to obstruct the administration of the law. The courts are in session as usual, and can obtain any assistance needed to execute process, except against the class of hounds belonging to the secret gang the Committee are determined to root out. They have destroyed no property; they are in no sense mobites or insurrectionists. The people of San Francisco are battling for the right, for the moral, the good, the

virtuous, against wrong, outrage, the immoral, the bad, and vicious; and we believe they will be sustained as they ought to be, by the pulpit, the press, and the people."

"In all seriousness," writes the *Globe's* editor, the same date, "we ask if Governor Johnson really believed the city of San Francisco to be in a state of insurrection; if he supposed for one instant that we, as citizens of the state, contemplated a nullification of its laws; that we had banded together, wasted time and money, and incurred all the responsibilities involved, for the sole purpose of opposing the ministers of the law in the performance of their sworn duties? Does his excellency know anything? Or will he still persist in his know-nothing ideas of the present movement of the people of this city? Must we again inform him that we are the real law and order party; that the people have not done anything but what the law should have done, and that they do not contemplate doing anything further than the enforcement of the act entitled an act for the punishment of vagrants, in a somewhat modified but vastly improved form—ridding the country of them instead of keeping them confined in our local jail at public expense, pensioners instead of convicts?"

"Could anything be nearer the climax of absurdity," asks the *Bulletin*, referring to Johnson and Sherman, "than their behavior has been? Their defence of their conduct is based entirely on technical legal grounds, and yet the documents they issue as the preliminaries to action, are lacking in the very essential which they claim is indispensable! Their conduct is illegal, and yet they have the audacity to call on the public to aid them in sustaining law against an illegal body, the Vigilance Committee. Now the order of the major-general has no more binding effect as a legal document than the summons of the Vigilance Committee."

"The proceedings of the Executive and his soldier-

banker assistant are based on a lie, a lie which the thinking citizens of San Francisco at once detect and despise. There is no 'armed body' in San Francisco which is 'threatening acts of violence and rebellion against the constitution and laws of this state,' unless the armed body which proceeded to enroll itself yesterday in pursuance to the 'general orders' may be considered as such. The city is quiet, the citizens are satisfied, and woe be to those who transform our streets into a battle-field. The work must go on, peaceably if possible, but it must be finished. No pen-and-ink artillery can frighten either the executive body of reformers or their supporters."

In answer to the charge of feeble-mindedness and vacillation the governor replied that in the incipient stages of the movement he did not consider himself in possession of sufficient force to render action effectual. This was a weak subterfuge. It was patent to the simplest mind that delay had not strengthened his position at all; and that if this was a sufficient excuse at the first, it was a still better one when he began to stir. Besides, such a contingency never should have been considered at any time. His duty was to act or not to act, to proclaim an insurrection or not so to proclaim. That duty done, if he lacked the power to enforce his mandates it was no fault of his.

It seems never to have occurred to the governor and his general that nothing short of a large and standing army could effect their purpose. In spite of them the organization could exist, if not palpably then impalpably. The murderers taken could be hanged and the lesser criminals expatriated, or otherwise spirited away, while the law and order forces were marching on them, if necessary. The Committee could then have scattered to their homes leaving nothing but the empty rooms for the soldiers to seize. But this the Committee never would have done. So strengthened, as they proceeded, had the opinion in

them become, as to the correctness of their course, that now they would have fought to the death for the principle. Though their work were done and they were ready to relinquish their post, they would not do so under mandate of the law; they would not so acknowledge their course to have been an error. They claimed they possessed in themselves the right to do as they had done; that right they should exercise whenever duty called it out, and for that opinion and principle they would fight.

CHAPTER XVII.

FUTILE ATTEMPTS AT RECONCILIATION.

Do you not know me, Mr. Justice?
Justice is blind, he knows nobody.
Dryden.

THERE were yet in the good city of Saint Francis certain honored and esteemed men who held the people's interest above personal impulse or party spirit, who were neither of the vigilance committee nor yet of the law and order party, but who enjoyed the respect and confidence of both factions.

And here I have an incident forgotten by General Sherman, both in his letter and in his *Memoirs;* and as it redounds to his credit in a greater degree than anything I find therein mentioned, I take the more pleasure in giving it. For the truth of my statement I have before me the records of the executive committee, and the dictation of Mr Coleman.

In the former I find written in the minutes of a special session held at four o'clock on Wednesday the 4th of June, the following motion made by Mr Truett and carried, "That Mr Crockett be admitted before this body, provided he can speak the sentiments of Major-general Sherman. Mr F. W. Page was appointed to wait upon Mr Crockett and accompany him to the executive committee rooms." The meeting then adjourned, and next day Mr. Crockett appeared before the Committee and made propositions which will be given hereafter. Mr Crockett then retired to an adjoining room at the request of the Committee and waited their reply. After some discussion

a committee was appointed consisting of Dempster, Smiley, and Truett, to wait on Mr Crockett at his office that evening and there to communicate with Major-general Sherman.

Hear now what Mr Coleman says: "About the same time"—he had been speaking of the proposition of ex-Mayor Webb, and others hereinafter mentioned to found with the vigilance committee a new Pacific States empire—"General Sherman made overtures to us, through Judge Crockett, and other prominent highly respected citizens, to the effect that if the Committee would not resist the writ of *habeas corpus*, one great difficulty between the state authority and ourselves would be removed. We appointed a committee of conference upon this and other subjects, and reassured the general and the state authorities of our desire to avoid any conflict that it was practicable to escape; that we most cheerfully accepted the proposition to admit, accept, and allow to be served any regular writ of *habeas corpus* that should be issued by the regular courts; that to us it had been the most embarrassing question we had had to meet, and that we had never refused the writ, although the service had been avoided, and it was laid at our door that we had, while the fact was that the officer having it in charge had retired after making a faint effort at service, whereas, energy and determination on his part, as an officer, would probably have procured service.

"We further told them that we would, as far as consistent with our undertaking and duties to ourselves, and the trust that had been charged to us, do everything to avoid not only seeming conflict with the officers of the law, but even with the fair, good opinion of any of our citizens. It was objected that our military was filling the streets, making unnecessary display, and exciting the fears of one portion of the community and the prejudice of the others. In answer to this we proposed and ordered that our troops should

not parade the streets any further, except it be in an action of emergency and necessity, and under orders of the Executive; and we went so far as to make every proposition we could, take every step we could toward conciliation and peace, and stated distinctly that what we wanted was not to increase our work nor the appearance of it; not to increase our importance nor the appearance of it, but that we be allowed as much as possible to be left alone until we could consummate what we had undertaken, and we were in honor bound to complete, and to disband. One committee of citizens kindly undertook to ask the governor of the state to withdraw his proclamation which ordered the Committee to disband, and we were invited to join in the request, which of course we could not accede to, though it would be most in harmony with our wishes, and contribute most largely to our ability to conclude our work, if the governor should do so, and remove one of the great irritating causes of the hour."

After these several consultations of the Committee with Crockett and Sherman, Mr Crockett asked several gentlemen to unite with him in forming a conciliation committee for the purpose of further attempts at reconciliation between the people as represented by the Committee and the people as represented by the governor, the general, and the judge. These communicated with the governor and desired an interview, naming Benicia as a proper place, lying as it did midway between the metropolis and the capital. Accordingly on Saturday the 7th of June, the governor and his advisers, among whom were Douglass, secretary of state, Volney E. Howard, Terry, and McCorkle, came down as far as Benicia in the steamboat *Antelope*, and the citizens' deputation went up the same evening on the *Bragdon*. Sherman also was there, as well as Jones, of Palmer, Cook and Company, and E. D. Baker.

The Sacramento party were first to arrive and take up their quarters at the hotel. Shortly afterward the

San Francisco party entered the hotel and notified the governor of their readiness to wait on him. In a somewhat dictatorial and impertinent manner they were informed by Terry and Howard that they could not be admitted to the governor's presence except on written application. Smothering for the good of the cause the feelings arising from what they deemed contemptible if not insulting conduct, they sent in the following communication:

"BENICIA, June 7, 1856.

"*To his Excellency, J. Neely Johnson, Governor of California:—*

"SIR: The undersigned, citizens of San Francisco, on their own behalf, and on behalf of a large portion of the people of that city, respectfully ask a personal interview with your excellency touching the present alarming crisis in its affair.

"J. B. Crockett, E. W. Earl, F. W. Macondray, James V. Thornton, H. S. Foote, James Donahue, M. R. Roberts, John J. Williams, John Sime, Balie Peyton, E. W. P. Bissell."

They were then permitted to enter the governor's presence. J. B. Crockett as chairman of the deputation informed the governor that he and his associates were in no wise connected with the Committee of Vigilance, but, actuated solely by a desire to prevent a collision, they had come in the general interests of the city. He could not speak definitely for the Committee, but he felt authorized to say that the Committee would do nothing to instigate a collision, that they would desist from further exhibition of armed forces in the street, and that hereafter they would yield obedience to all writs of *habeas corpus*. The deputation, he said, had visited the Committee rooms before leaving the city, for the purpose of determining a settled plan, but time had failed them to complete it. Finally Mr Crockett urged the governor not to precipitate the crisis, assuring him that the Committee would soon disband voluntarily.

During the conference the governor, assuming an air of complacent bravado, sat with his feet elevated smoking a cigar. Terry sat with feet still higher and covered head, his hat drawn partly over his eyes.

When Mr Crockett had finished, the governor stated that his answer would be given in writing. The deputation then withdrew, and shortly afterward the following communication was handed them:

"BENICIA, CAL., June 7, 1856.

"*Hon. John B. Crockett and others, committee from citizens of San Francisco:*—

"GENTLEMEN: In reply to the verbal communication made to me this evening, in relation to the existing condition of affairs in the city of San Francisco, I have to say that the hope you have expressed that the unhappy difficulties of which you have made mention may terminate without bloodshed, fully accords with my own desire, and I can assure you that nothing shall be done on my part which shall not imperatively be rendered necessary to secure a compliance with the executive proclamation, issued by me on the third instant. By virtue of the constitution of this state, it is made my duty to enforce the execution of the laws. This duty I shall perform, and if unhappily a collision occurs, and injury to life or property result, the responsibility must rest on those who disregard the authority of the state.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON."

The *Bragdon* and the *Antelope*, which had awaited at the Benicia wharf the conference of their distinguished freight, now received the parties on board, the former that of the governor returning to Sacramento, and the latter that of the San Francisco deputation which returned to the city.

"In the eyes of all calm thinking citizens," comments the Sacramento *Union* on this conference, "the action of the executive at Benicia will place him decidedly in the wrong. The members of the committee of citizens unite in saying they were never before so formally and discourteously received on any occasion. When they appeared in the presence of his excellency and friends, they were permitted to stand during the interview." And thus the *True Californian*: "The governor was respectfully approached by able and conscientious gentlemen, not affiliated with the Committee, nor bound in any way to acknowledge its power, on behalf of the peace-loving inhabitants of this city, who felt it a sacred duty to represent to him the true state of the public mind. They found him surrounded by the hottest and most heedless of all who

have taken ground against the people, and met with a repulse at their hands, which must have stung them with mortification and shame."

"These gentlemen," says Coleman, speaking of the conciliation committee, "with a large number of people waited on the governor at Benicia, represented the state of affairs, and as far as I understand it undertook to be mediators between the state authorities and the Committee, requesting the state authorities to desist from threatened forcible military action against the Committee, and promising their own good efforts and the coöperation of others with them in behalf of an early restoration to the normal condition of affairs, if this could be assured and accomplished. This committee were provided with the pledges of our body that they would cease to increase their military establishment, cease to parade the streets and make military displays and demonstrations, allow full force to the writ of *habeas corpus*, do everything on their part required towards the early restoration of peace, provided the state forces were disbanded, and we be allowed, undisturbed, as above indicated, to complete our work. All this effort on our part, all our overtures, advances, concessions were unfortunately misunderstood to mean weakness or timidity on our part, and it was thought a fitting time on the part of the governor and his advisers to make a more bold demonstration than ever, to decline every proposition, make no terms with us at all, and carry out the plan of intimidation, or, as they fancied it, conquering a peace, and ordering our submission. Seeing the evident effect this had produced, regretting sincerely the mistake the governor and his advisers made, not only as to our views and wishes, not only as to our strength or weakness, but also what we regarded as a blind and unstatesmanlike policy on his part, and appreciating in the fullest degree our responsibilities, and all the risks and hazards and perils of our position, we determined that there was but one course left to us, and that was a calm, courageous, de-

termined, unremitting effort to maintain our position and accomplish our work, by a vigorous prosecution, if need be a dignified silence, a determined effort in the direction of right, and a strict avoidance of wrongs towards every one. We therefore withdrew the proposition we had made through the committee of citizens to the governor and his authorities, and determined to meet the conflict of arms as manfully as we could, should it be precipitated upon us, and we went energetically to work to further fortify our military position, increasing our forces, doubling our vigilance, strengthening our position, and redoubling every effort and precaution."

So indecent were Johnson and Terry in their conduct toward Crockett and the conciliation committee, that even Sherman became ashamed of the company he was keeping; and no sooner had the governor finished his written answer to Crockett, which was pronounced by the general to be so scratched and amended to suit the views of various counsellors that it amounted to nothing, than Sherman sat down and wrote his resignation. It was immediately accepted, and Volney E. Howard, a lawyer then present, and once member of congress from Texas, was appointed to the place. Thus with a law-abiding judge, and a law-abiding general, the governor was prepared to "sweep the damned pork merchants into the Bay."

On resigning his commission Sherman indited a communication, "To my friends in California," in which he statted that he was not an advocate of the Vigilance Committee, but that when he had received the order of the governor to organize the militia, he promised when a sufficient number were enlisted to equip and muster them into the service of the state. "I based my promise," said he, "of arming the enrolled militia, on a verbal assurance given to Governor Johnson by General Wool in my presence, to issue from the United States arsenal, on a proper requisition, such arms and munitions of war as the

emergency might call for. It is now no longer a secret, that when the written requisition was made, General Wool had changed his mind, and had discovered that he had not the legal power to grant the request."

The tenor of these words places General Wool in the position of having made a promise and failed in keeping it. This is not true. General Wool never wavered nor changed his mind. He promised arms whenever a proper requisition was made, whenever he was directed by the president to turn them over to the governor. Wool was convinced, all the time, that he had no right to grant the governor the use of United States arms without being so directed by the authorities at Washington. Volney E. Howard and E. D. Baker waited on Wool and endeavored to intimidate him, threatening, in case he persisted in refusing the law and order party the use of United States arms, to report him at Washington. The eye of the old veteran flashed and his form rose perceptibly in stature. "I think, gentlemen, I know my duty, and in its performance dread no responsibility," he said, as he bowed them from the room.

Further than this, it appears that Johnson became dissatisfied on account of Sherman's delays and excuses. The governor was eager for war. His proclamation had no more effect on the people than a paper bullet. Sherman was ready enough to fire on the citizens, but he must have men and muskets. So they quarrelled, and Sherman felt bound to afford Johnson an opportunity "to select some representative here whose ideas were more consonant with his own."

"Sherman has resigned his commission," says the *Bulletin* of June 9th, "General Wool has refused to grant the reactionists aid, and the enrolments which were to number myriads barely reach on paper the tenth part of the predictions of the law and murder press. The governor is still firm, but it is the firmness of the quadruped most noted for its stupidity."

Johnson and Sherman manifested great surprise when some one informed them that if they expected arms and ammunition from General Wool they would be disappointed. Sherman immediately wrote Wool saying that any hesitation on his part would compromise him, Sherman, as a man of truth and honor—which was indeed a matter of great moment to the world, the cause in comparison being nothing—adding "that I did not believe we should ever need the arms, but only the promise of them, for the Committee were letting down, and would soon disperse and submit to the law." This was not a true statement in three particulars. Sherman well knew that the Committee would fight if necessary, that they never were stronger, their enthusiam never was higher, and that their numbers and efficiency were daily and hourly increasing, and that the arms would be used, and on their use would depend their success. To this letter General Wool simply but firmly denied ever having made such a promise. The governor was very angry, denounced Wool as a "damned liar," whom he would never again recognize as an officer or a gentleman.

Johnson also wrote Wool, though he would neither see nor speak to him, nor even lodge under the same roof with him, so greatly had his understanding been offended. Says the governor to General Wool, under date of the 7th of June:

"It is now manifest that the power of the military of this state is urgently and absolutely demanded for the suppression of such disregard of the constitution and laws, and for that object a large military force is now in course of organization, under my sanction and authority. It is a large force we will necessarily have to encounter; and for the due protection and maintenance of the authority of the state, I now request of you a sufficient supply of arms, accoutrements, and munitions of war for the use of the state forces; and I guarantee, as the executive of the state, that the same shall be returned or paid for.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON, *Governor of California.*

"*Major-general John E. Wool, Commanding Pacific Division, U. S. A., Benicia.*

"P. S.—On a former occasion, to wit, the 31st day of May, 1856, you promised me, on the happening of a certain contingency, indicated by yourself, which, from the foregoing communication, you will perceive has occurred, that you would furnish on my order, as the governor of the state, such arms as I wanted. I doubt not you will not hesitate in the present emergency to comply with the request now preferred; and that the order I now make may be rendered more specific, I will ask that you furnish me with three thousand stand of muskets or rifles, fifty rounds of ammunition, two mortars, three hundred shells, and two guns of as large calibre as you have, with their ammunition and appliances.

"J. NEELY JOHNSON, *Governor of California.*"

General Wool's reply to this letter simply stated that Governor Johnson was mistaken in the matter of promise and that he did not deem it judicious to comply with his request. As the general's reasons for his refusal are more fully set forth in a letter directed to Governor Johnson in answer to a charge of falsified promise preferred by the governor before the authorities at Washington I insert it here.

"HEAD-QUARTERS, DEPARTMENT OF THE PACIFIC,
BENICIA, CAL., September 17, 1856.

"SIR:

"In your request, dated the 19th of June, to the president of the United States for aid and assistance in the enforcement of the laws of California; and that he might the better understand the propriety of readily granting such request, you beg leave to present a brief recital of events which have recently transpired and rendered necessary such application.

"In your recital of events, you say that 'on the 3d day of June I issued a proclamation declaring the county of San Francisco in a state of insurrection. To General Wool I had previously, in a personal interview, detailed the condition of affairs, of which matters he was fully informed otherwise. At such interviews he unhesitatingly promised me, on the representation made him that we were almost wholly destitute of arms, and of ammunition we had none, to furnish on my requisition, when we wanted them, such arms and ammunition as I desired.'

"That you should have made this declaration, that I 'unhesitatingly' promised you arms and ammunition—greatly surprised me; for it is not possible it should have escaped your recollection that, when you verbally applied to me, on our first interview, for arms and ammunition, at my lodgings, on the 30th of May, I 'unhesitatingly' told you that I had no authority to furnish you with them; that the authority in such cases rested with the president of the United States. See my letter addressed to you 9th of June. I also told you, at the time, that an officer for issuing arms, in a case somewhat analogous to the one presented by you, was dismissed the service by President Jackson.

"Previous to which, however, you presented in detail the condition of affairs in San Francisco, when I remarked that you had lost the golden opportunity of putting down the Vigilance Committee; that it should have been resisted at the jail, which ought not to have been surrendered without resistance. You replied that it could not have been done at that time, for a large majority of the citizens of San Francisco were in favor of the Committee. You further said that Casey and Cora merited their fate, and if the prisoners then in custody of the Committee were sent away it would be a great blessing to the country; and if the Committee would stop there, you would not interfere with its proceedings. You, however, being satisfied that such would not be the case, and that it intended to go on in its unlawful proceedings, had determined to arrest its further progress. Believing, from your own statement, that a large majority, not only of the citizens of San Francisco, but of the state, were in favor of the Vigilance Committee, I advised against too much precipitation; and as you had waited so long, some ten or twelve days, without adopting any efficient measures to stay its proceedings, I said a few days' longer delay could do no harm. You said, however, the time for action had arrived, and that the Committee must either be put down or arrested in its unlawful course. Such was substantially the conversation which passed between you and myself at our first interview. After the declaration made at that time, that I had not the authority to furnish you with arms—that the authority rested with the president—it appears to me passing strange, and it is beyond my comprehension, that you should have asserted in your communication to the president that I unhesitatingly promised you arms and ammunition. But if such was the case how came Major-General Sherman, during your visit to Vallejo, to call your attention to the fact that I had not promised you arms etc., and that you should obtain the promise from me before you left Benicia? Accordingly, as he states, whilst at the steamboat-landing you called me, with the general, aside, no one else being present, when, according to his statement, I promised to issue from the United States arsenal, on a proper requisition, such arms and munitions of war as the emergency might call for. There is a wide difference between your assertion and his as to the promise. It appears, however, from his statement, that the promise was not made unhesitatingly, but twenty-four hours after the first interview, and after you returned from Vallejo, and while on the steamboat wharf, where I went to take leave of you on your return to Sacramento; and that the arms and ammunition were to be issued 'on a proper requisition,' and 'as the emergency might call for.' Whether I made the promise as asserted by yourself or Major-general Sherman, cannot materially affect the matter at issue. The question you had under consideration was of the highest importance—one which might no less involve the destruction of a city than the lives of many citizens, besides the welfare and prosperity of California. Under these circumstances, I could not doubt, before commencing operations, you would examine all the laws bearing on the question—those of the United States as well as this state. The object for which you desire to obtain arms, as you stated, was to maintain the majesty of the law, and to put down those who were violating it. Even if I had promised you arms, without reservation or qualification, would you have insisted upon my fulfilling the promise, if you dis-

covered that it was in violation of law? I am unwilling to believe that you, the executive of the state, bound to see the laws faithfully executed, would violate them, and certainly not to urge it upon myself. As your object was to enforce respect and obedience to the laws of California, you certainly ought not to censure or complain of me because I would not comply with a verbal promise, of which I have not the slightest recollection, when such a compliance would be a gross violation of the laws of the United States. You may say that I ought to have known what the law was before making the promise. I did know it, and communicated it to you at our first interview, and therefore it is that I cannot bring myself to believe that I could have made any promise incompatible with the law. If it was incumbent on me to know the law, it certainly was much more so on your part, in this particular case. If you had known the laws bearing on the question, I cannot believe that you would at the time have issued your proclamation, applied to me for arms, or appealed to the president for aid in enforcing the laws of California. For your proclamation of the 3d of June declares 'the county of San Francisco in a state of insurrection,' and it is in exactly such a state of things that any officer under the president is prohibited by the law of Congress from issuing any arms or munitions of war. Your first official application for arms was made on the 4th, and your second on the 7th of June. Both were officially declined, the first on the 5th and the second on the 9th—when I officially informed you that the authority to comply with your request belonged exclusively, in such cases, to the president of the United States, of which I also informed you at our first interview, 30th May.

"In conclusion, I would merely say, from a remark in your communication to the president, and the sayings of some of your special friends, that I was influenced by some of the Vigilance Committee, or their sympathizers, that yourself and suite, numbering four altogether, and Colonel Baker, and Volney E. Howard, are the only persons who called on me to consult, advise, or converse upon the subject of the contest waged between the Vigilance Committee and the law and order party.

"I am, sir, very respectfully, your obedient servant,

"JOHN E. WOOL, *Major-general.*

"*To His Excellency J. Neely Johnson, Governor of California, Sacramento, Cal.*"

No one can read this manly and dignified letter of the veteran general without being satisfied of the integrity of the writer and the truth of his words. The quiet rebuke of the governor's course is all the more effective in view of the absence of abusive epithets such as might not unreasonably be looked for in a military man upon whom the charge of failure to keep a promise had been laid.

There are many happy wives to-day in California who may thank Wool and Farragut that they are not

widows; many sons and daughters who may thank these humane officers that they are not orphans. To them is due that rare reward, the honor of minding their own business.

"No circumstances have transpired," says the Sacramento *Union*, "since the great moral movement commenced in San Francisco, which have gone so far to convince us that a blood-thirsty, ferocious, if not demoniac disposition controlled the councils of the state, as those of secretly shipping arms to San Francisco, and applying to the general government for aid. These transactions go far to exhibit the fell spirit which guides the acts of the generals and officers of state. The first proves them capable of secretly furnishing the means to take the people by surprise, and of shooting all citizens of San Francisco in the streets, and in their own houses, unless they surrendered unconditionally to these new-fledged tyrants. These temporary officials seem disposed to act as arbitrarily as if they were hereditary princes, despots of the first water, born to rule and ride over their subjects. They forget that they only hold power for a day, and only as trustees and agents for the people. The people are the principals, and if their agents put on too many of the airs of despots, of petty tyrants, they may consider it necessary for their own protection to remove their agents and put others in their places."

One should hear the classic tongue of Mr Dows to gain an idea of the feeling of the Committee to this day toward General Sherman. "Sherman was opposed to it," says his dictation, "and talked like a damned fool in some communications that he has made since about what he did; but he had not the means and could not have done anything if he had tried, and would have found it a damned sight worse job than walking through Georgia. If he had attempted to do anything in opposition to the Committee, we would have strung him up as we would a dog. Farragut was our friend, as far as he could be with

propriety in his position, as an officer of the government."

That Sherman really intended to carry into execution his plan of bombardment in case he had the power; that he was by nature so blood-thirsty and by education so fanatically cruel as to slaughter a city full of free intelligent citizens of the United States whose only crime was virtue, whose only misdeed was a pure unselfish effort to cleanse their political and social atmosphere of its immoralities, I could not myself believe but for his own reiterated assertions, assertions in which he seems to take much military pride and personal satisfaction. Some of the best men of the vigilants came to me and remonstrated, he boasts, "saying that collision would surely result; that it would be terrible, etc. All I could say was for them to get out of the way. Remove your fort; cease your midnight councils; and prevent your armed bodies from patrolling the streets." Again, when Crockett and his party attempted conciliatory measures: "I told them that our men were enrolling very fast, and that, when I deemed the right moment had come, the Vigilance Committee must disperse, else bloodshed and destruction of property would inevitably follow."

Meanwhile, Judge Terry was putting forth his utmost exertion to stir up enmity toward the Committee, and Olney was ordered to present a stronger defense as the Executive would hold him responsible not only for the safety of the prisoners but of the premises likewise. Round Fort Vigilance the streets were cleared for a distance of two blocks in every direction. Six brass pieces were made ready. Within the breastwork of gunny bags were placed one hundred French musketeers, with two cannon pointing up Sacramento street and two pointing toward the direction of the moral-effect craft the *John Adams*. On the roof were swivels loaded with grape; the guard, both police and military, were constantly under

arms, and the triangle was ready to bring out the entire force at a moment's notice.

A proposition was made the Committee the 2d of June by ex-Mayor Webb and other influential men of San Francisco in view of the present state of things to call an extra session of the legislature. They were confident that body would have a majority in favor of vigilance, and control the apparently rash and inimical action of the governor. The Committee deemed the proposed action inexpedient; but whether taken or not the Committee could have nothing to do with it, the seventh article of their constitution prohibiting them the consideration of any political measure whatever.

The principle, assuredly paradoxical as applied by adherents to constitutional forms of secession, now began its manifestation on these shores. Southern discontents argued that division among the states was inevitable, and that as the Pacific Coast was separated from the Atlantic geographically, so it was destined shortly to be politically. Here was a spot designed by nature and circumstance for the founding of an independent empire, and accident had opened the way for its initiation. The first bold step toward separation had unconsciously been taken, and now for the Vigilance Committee to declare California's independence of the United States would be a grand beginning of glory. It would be a movement eminently popular with their opponents, who the moment their prejudices and interests demanded the downfall of law were ready to cry up the rights of the people as lustily as any. Then the Mulligans, and Sullivans, and Brannagans, and Bulgers they might strangle to their hearts' content; greater game than petty municipal office should hereafter be the object of their sacred aspirations.

That there were some in the Committee whose affections were with state secession there can be no doubt; but that the body as a whole, composed as it was of

nine tenths northern and foreign non-political merchants and mechanics, favored separation from the government of their fathers, or ever dreamed of it, or ever would have entertained the proposal for a moment, no intelligent person ever imagined. "True," says Mr Coleman, in speaking upon this subject, "we were technically rebels, as we had nominally resisted the law, and had taken it into our hands; but it was purely technical, for no more loyal citizens existed in the broad domain of the Union than in our ranks."

Some three or four weeks after the organization of the association, the editor of the *Bulletin* notified the Executive that Balie Peyton, H. S. Foote, and others had offered an article for publication which they desired the Committee to endorse. Truett and Jessup were sent to look at it; they pronounced it revolutionary and wholly opposed to the views entertained by the Executive, so that it was not printed. These men professed great friendship for the Committee; in a confidential way they informed the vigilant delegation that they could now neither go back nor stand still, that unless they threw off the government entirely all their necks would be in the halter. Think of it, eight thousand San Franciscans hanging at once! And yet, strange to say, nobody was frightened.

In view of the foregoing, and that the people of the coast might know exactly where the Committee stood on these most vital questions of the age, the Executive determined to issue an address setting forth the necessity which called the organization into existence, and its original and present determination to disband the moment that necessity ceased to exist. Further than this the Committee believed their labors now about at a close, and they would not the movement should be misunderstood, or the organization used by act or implication as part of or preliminary to any political scheme. This was right; it was the only thing

to do. Yet an unanticipated evil immediately grew out of it, which was exciting the opposition to increased efforts, when they saw the association could not be brought under party influence. Though this in truth was no evil, as the sequel shows. Herewith I give the address which appeared in the journals of the 9th of June. It was written by Mr Dempster, Smiley, Hale, and Tillinghast acting as a committee, and compares favorably with any declaration of rights, or of independence, ever pronounced by an oppressed people:

"TO THE PEOPLE OF CALIFORNIA.

"The Committee of Vigilance, placed in the position they now occupy by the voice and countenance of the vast majority of their fellow-citizens, as executors of their will, desire to define the necessity which has forced this people into their present organization.

"Great public emergencies demand prompt and vigorous remedies. The people, long suffering under an organized despotism which has invaded their liberties, squandered their property, usurped their offices of trust and emolument, endangered their lives, prevented the expression of their will through the ballot-box, and corrupted the channels of justice, have now arisen in virtue of their inherent right and power. All political, religious, and sectional differences and issues have given way to the paramount necessity of a thorough and fundamental reform and purification of the social and political body. The voice of a whole people has demanded union and organization as the only means of making our laws effective, and regaining the rights of free speech, free vote, and public safety. For years they have patiently waited and striven, in a peaceable manner, and in accordance with the forms of law, to reform the abuses which have made our city a byword, fraud and violence have foiled every effort, and the laws to which the people looked for protection, while distorted and rendered effete in practice, so as to shield the vile, have been used as a powerful engine to fasten upon us tyranny and misrule.

"As republicans we looked to the ballot-box as our safeguard and sure remedy. But so effectually and so long was its voice smothered, the votes deposited in it by freemen so entirely outnumbered by ballots thrust in through fraud at midnight, or nullified by the false counts of judges and inspectors of elections at noon-day, that many doubted whether the majority of the people were not utterly corrupt. Organized gangs of bad men, of all political parties, or who assumed any particular creed from mercenary and corrupt motives, have parcelled out our offices among themselves, or sold them to the highest bidders; have provided themselves with convenient tools to obey their nod, as clerks, inspectors, and judges of election; have employed bullies and professional fighters to destroy tally-lists by force and prevent peaceable citizens from ascertaining in a lawful manner the true number of votes polled at our elections; and have used cunningly contrived

ballot-boxes, with false sides and bottoms, so prepared that by means of a spring or slide, spurious tickets, concealed there previous to the election, could be mingled with genuine votes. Of all this we have the most irrefragable proofs. Felons from other lands and states, and unconvicted criminals equally as bad, have thus controlled public funds and property, and have often amassed sudden fortunes without having done an honest day's work with head or hands. Thus the fair inheritance of our city has been embezzled and squandered—our streets and wharves are in ruins, and the miserable entailment of an enormous debt will bequeath sorrow and poverty to another generation. The jury-box has been tampered with, and our jury trials have been made to shield the hundreds of murderers whose red hands have cemented this tyranny, and silenced with the bowie-knife and the pistol, not only the free voice of an indignant press, but the shuddering rebuke of the outraged citizen.

"To our shame be it said that the inhabitants of distant lands already know that corrupt men in office, as well as gamblers, shoulder-strikers, and other vile tools of unscrupulous leaders, beat, maim, and shoot down with impunity, as well peaceable and unoffending citizens, as those earnest reformers who, at the known hazard of their lives, and with singleness of heart, have sought, in a lawful manner, to thwart schemes of public plunder or to awaken investigation. Embodied in the principles of republican governments are the truths that the majority should rule, and that when corrupt officials, who have fraudulently seized the reins of authority, designedly thwart the execution of the laws and avert punishment from the notoriously guilty, the power they usurp reverts back to the people from whom it was wrested. Realizing these truths, and confident that they were carrying out the will of the vast majority of the citizens of this county, the Committee of Vigilance, under a solemn sense of the responsibility that rested upon them, have calmly and dispassionately weighed the evidences before them, and decreed the death of some and the banishment of others who by their crimes and villainies had stained our fair land. With those that were banished this comparatively moderate punishment was chosen, not because ignominious death was not deserved, but that the error, if any, might surely be upon the side of mercy to the criminal. There are others scarcely less guilty, against whom the same punishment has been decreed, but they have been allowed further time to arrange for their final departure, and with the hope that permission to depart voluntarily might induce repentance, and repentance amendment, they have been suffered to choose within certain limits their own time and method of going.

"Thus far, and throughout their arduous duties, they have been, and will be guided by the most conscientious convictions of imperative duty; and they earnestly hope that in endeavoring to mete out merciful justice to the guilty, their counsels may be so guided by that Power before whose tribunal we shall all stand, that in the vicissitudes of after life, amid the calm reflections of old age and in the clear view of dying conscience, there may be found nothing we would regret or wish to change. We have no friends to reward, no enemies to punish, no private ends to accomplish. Our single heartfelt aim is the public good; the purging, from our community, of those abandoned char-

acters whose actions have been evil continually, and have finally forced upon us the efforts we are now making. We have no favoritism as a body, nor shall there be evinced, in any of our acts, either partiality for or prejudice against any race, sect, or party. While thus far we have not discovered on the part of our constituents any indications of lack of confidence, and have no reason to doubt that the great majority of the inhabitants of the county endorse our acts, and desire us to continue the work of weeding out the irreclaimable characters from the community, we have, with deep regret, seen that some of the state authorities have felt it their duty to organize a force to resist us. It is not impossible for us to realize, that not only those who have sought place with a view to public plunder, but also those gentlemen who, in accepting offices to which they were honestly elected, have sworn to support the laws of the state of California, find it difficult to reconcile their supposed duties with acquiescence in the acts of the Committee of Vigilance, since they do not reflect that perhaps more than three fourths of the people of the entire state sympathize with and endorse our efforts, and as that all law emanates from the people, so that, when the laws thus enacted are not executed, the power returns to the people, and is theirs whenever they may choose to exercise it.

"These gentlemen would not have hesitated to acknowledge the self-evident truth, had the people chosen to make their present movement a complete revolution, recalled all the power they had delegated, and reissued it to new agents, under new forms. Now, because the people have not seen fit to resume all the powers they have confided to executive or legislative officers, it certainly does not follow that they cannot, in the exercise of their inherent sovereign power, withdraw from corrupt and unfaithful servants the authority they have used to thwart the ends of justice. Those officers whose mistaken sense of duty leads them to array themselves against the determined action of the people, whose servants they have become, may be respected, while their errors may be regretted; but none can envy the future reflections of that man who, whether in the heat of malignant passion, or with the vain hope of preserving by violence a position obtained through fraud and bribery, seeks under the color of law to enlist the outcasts of society as a hireling soldiery in the service of the state, or urges criminals, by hopes of plunder, to continue at the cost of civil war, the reign of ballot-box stuffers, suborners of witnesses, and tamperers with the jury-box.

"The Committee of Vigilance believe that the people have intrusted to them the duty of gathering evidence, and, after due trial, expelling from the community those ruffians and assassins who have so long outraged the peace and good order of society, violated the ballot-box, overridden law, and thwarted justice. Beyond the duties incident to this, we do not desire to interfere with the details of government. We have spared and shall spare no effort to avoid bloodshed or civil war; but undeterred by threats or opposing organizations, shall continue peaceably if we can, forcibly if we must, this work of reform, to which we have pledged our lives, our fortunes, and our sacred honor. Our labors have been arduous, our deliberations have been cautious, our determinations firm, our counsels prudent, our motives pure; and while regretting the imperious necessity which called us into action, we

are anxious that this necessity should exist no longer; and when our labors shall have been accomplished, when the community shall be freed from the evils it has so long endured; when we have insured to our citizens an honest and vigorous protection of their rights, then the Committee of Vigilance will find great pleasure in resigning their power into the hands of the people, from whom it was received.

"Published by order of the Committee.

"No. 33, *Secretary.*"

[Seal of the Committee.]

CHAPTER XVIII.

CONCURRENT EVENTS.

Gute Menschen können sich leichter in schlimme hineindenken, als diese in jene.

Jean Paul Richter.

THE actual leader of the politico-ruffian element during the crisis of 1856, as well as of the more vulgar slung-shot and burglar element of 1851, was David C. Broderick, whose monument, raised by admiring sympathizers, stands to-day *in perpetuam rei memoriam* of nobody knows what. Others have been firemen, bullies, senators, and duellists; others have foolishly fought and have been slain for their folly. Piling marble upon lifeless bones never yet made noble the deeds of tyrant or demagogue.

The 31st of May the grand marshal reported that David Broderick, Alexander Campbell, Austin Smith, and others of the law party had been detected examining the Committee rooms in the rear of the vigilant premises from the windows of Mills and Vantine's store.

The same day the National Guards held a meeting to express their sentiments respecting a call made on them to oppose the Vigilance Committee. The captain affirmed that he was ready to obey the authorities, but the members of the company to a man agreed that they would resign and join the Committee sooner than oppose it.

The position assumed by Sherman and others, military men and federal and state office-holders, was no expression of their true sentiments. Hirelings of the government, to be consistent, must support the gov-

ernment. I am uncharitable enough to believe that there was little real honesty of opinion or purpose among them. Where interest has a voice the man himself knows not if he be honest.

Nearly a fortnight had elapsed since the hanging of Casey and Cora before the law and order party made a pronounced demonstration. Then upon the 2d of June under the shadow of the liberty-pole they met to raise the cry of persecution and bandy the state catch-words of liberty, constitution, habeas corpus, and trial by jury. There were many men of ability in the ranks of law and order. Men of ability need bread and butter as well as fools, and indeed it requires more ability to raise money by any vile indirection than in the honest way.

Colonel Baker was there and spoke well. The colonel always spoke well. He had a gift that way. Speaking was his business; he made his living by it. Little difference it made to him what was to be spoken, he could speak it all the same. When he talked, Judas was Peter, and Peter, Judas. Cora liked to hear him, though ten thousand dollars was a good deal to pay for killing one man. But Belle Cora's purse was deep and Richardson's murderer held the strings. "See Cora's defender!" cried the crowd. "Ed. Baker, Cora, and ten thousand dollars! Out of that, you old reprobate!"

This Law and Murder mass-meeting, as the rabble christened it, was held on the plaza at two o'clock the day before mentioned. Although the executive committee had given orders that the meeting should not be molested, and had caused to be exposed placards bearing the inscriptions: "Members of the Vigilance Committee, order must be maintained," "Friends of the Vigilance Committee come out of the square," yet upon the ground the confusion was so great that but little was effected. Attempts to address the meeting were made by Alexander Campbell, James Wade, Calhoun Benham, Bronson, Baker, and others, but the

crowds along Brenham place and on the house-tops by their shouts and ribald jests so interrupted them they were scarcely able to proceed. With the following resolution the meeting adjourned:

"*Resolved*, That it is the sense of this meeting that the reign of law and order should be resumed in the city of San Francisco, and that a termination should be put to the present excitement, and that every free American citizen be remitted to those inalienable rights which a free constitution and equal laws assume to them."

"I once thought," piteously declaimed Judge Campbell on this occasion, "that I was the free citizen of a free country, but recent occurrences have convinced me that I am a slave, a slave, gentlemen, more a slave than any on southern plantation, for they know their master, but I know not mine!"

"Oh, yes yer do," a voice in heavy baritone was heard to say. "You know your masters as well as anybody—two of them were hung the other day."

While Calhoun Benham was denouncing the governor and deploring the condition of the city which had been seized by a mob, robbed of its sacred rights and its liberties, stricken down by a band of conspirators, a large Colt's revolver in a belt round his waist was under his coat unwittingly displayed by him.

"See there's a pretty law and order man!" cried one.

"Yes," exclaimed another; "he is violating the law now."

"I carry this weapon," replied the speaker, "not as an instrument to overthrow law, but as one to uphold and protect law."

I doubt if the orator, able though he was, realized the profoundness of his sophistry. He broke the law to uphold the law; of what more could their worst enemy have accused the Vigilance Committee?

The storm of Monday was followed by a dead calm. Tuesday, the 3d of June, the day between the law and order demonstration on the plaza and the publication of the general orders and proclamation, was remarkable for its prevailing stillness.

"The right guaranteed in the writ of habeas corpus" the *Herald* regarded "as of all the acts of that body the most indefensible in its committal, and the most dangerous and detrimental in its consequences. For centuries wherever the English language is spoken, the infringement of this right has been looked upon as the deadliest of all crimes that tyranny can perpetuate against the liberties of a free people." And so the vengeance of offended heaven was to fall on San Francisco because the Vigilance Committee would not give Billy Mulligan to the sheriff. But I suppose this journal had readers who would have accepted such statements as true; most journals have believers in whatever they choose to print, no matter how nonsensical. On the face of it an assertion like this, "The suspension of this writ by the Committee of Vigilance is a mortal stab at the freedom of this people," is too false and absurd to merit notice except as a specimen of the morbid law and order literature of the time.

The following burst of empty eloquence, a part of the same editorial, marks the malignant man of genius:

"But the worst feature in this organized defiance of the ministers of the law is the admixture of an alien element in the ranks of the rebellious band. American citizens may bear a yoke imposed by Americans; a detestation of bloodshed and a desire to avoid the horrors of an internecine war may make men tolerate many wrongs at the hands of their fellow-citizens; but the whole spirit of our people, every instinct of their nature, every principle instilled in them in childhood revolts against the humiliation of wearing chains forged by men who owe no allegiance to the government, and who have no sympathy with the institutions of the land. Gentlemen of the Committee, in this you have made a fatal mistake. When on Saturday evening a sworn officer of the law was resisted in the performance of his duty and repulsed with bayonets from your portals, and when in anticipation of some danger your entire force was called out, your guard was doubled, your whole army was displayed for the purpose of overawing the citizens; the organs of your despotism next morning proclaimed to the world with approbatory mention that the French battalion had charge of the guns. They proclaimed to the nation the sad tale that a mandate from the highest officer in the state, the judge of the supreme court, was forcibly resisted with guns manned by aliens. We have all read how at the dawning of this great republic a vicious and tyrannical monarch, by a sordid bargain, employed an army of Hessian bayonets to crush out the freedom of a people struggling to independence. Gentlemen of the Commit-

tee, has your action furnished no parallel for this great historical crime? Have you not reproduced that act of turpitude of an inglorious despot, an act which, more than any other sin committed by George the Third against our people, has ever since rankled bitterly in the memories of the American nation?"

The editor who wrote thus, who filled his columns with rodomontade, with windy hibernicisms and fallacious analogies, feels at every line that he is on the wrong side. Compare the hired Hessians of the revolution with the Americanized men of France and Germany who paid for the privilege of joining the great San Francisco crusade against crime by contributions of time or money, as did indeed every member of the Committee. Gibberish!

The baptist clergyman, Mr Bryerly, touched the nerve of this issue between the people and the authorities when he let fly from the pulpit the following, the Sunday after the shooting of King:

"Terrible as our condition is and great as is the excitement, see to it so far as your acts or your influence are concerned, that you countenance neither directly nor indirectly any act above law or contrary to law until it is certain that its performance has become absolutely and beyond doubt indispensable to the securing of the ends of justice. If by legally constituted means the ends of right and justice can be reached and men attempt to reach them by other means and loss of life or other injury thereby results, God and the civilized world will hold the perpetrators responsible for these results. A most solemn responsibility rests upon you and those associated with you, and in the sacred names of God, justice, and humanity I charge you, neither countenance any act that shall peril life, nor in appearance even seem to set law at defiance, unless interests higher than all legal forms and a claim more imperative than your own existence shall make the act a necessity." Thus pondered every man of that executive committee before he subscribed his name, his honor, and his life to the cause. And their conclusion was right; interests higher than law

and claims more imperative than life called aloud for action.

The effect of the proclamation was to strengthen both sides. Opinion hitherto only pronounced, now took the form of action. Those who sympathized with that side joined the ranks of law and order; of the remainder of the community some, angry at the unwarrantable interference of the executive, enrolled themselves members of the Vigilance Committee. Others feeling driven by the proclamation to the adoption of some course, took sides, some joining one party and some the other.

Says the Sacramento *Union* of June 4th upon the subject: "If by ordering out the militia of the state to assist Judge Terry to serve his writ of habeas corpus a collision follow between the military and the people in which the life of one good citizen is sacrificed, the state authorities will regret it as long as they live. More than this, their names will be execrated by the people, or we are greatly in fault. An attempt to force the people at the point of the bayonet cannot succeed. Ours is not a government founded upon force; it rests upon public opinion and the will of the people."

The night of the 4th passed quietly. Horsemen, solitary and in couples, made the rounds of the city; four men with bayonets guarded the door of the Committee rooms and at short intervals the large guard within was relieved.

The law and order party affected to rejoice greatly over the manner in which the call of the governor was answered. "A number of companies," writes the *Herald's* editor the 5th of June, "had made up their muster-roll before two o'clock this morning. A number of others have nearly completed their organization. By to-night there will be fully three thousand men enrolled. The gallant and order-loving sons of San Joaquin, the mountain men of Sierra, of Yuba, of El Dorado, of Placer, and of Mariposa, are hastening

joyously and cheerily to the defense of the constitution. By Saturday night there will be in this city a force of ten thousand brave and loyal men."

It was claimed that between fifteen and eighteen hundred men were enrolled on the side of the authorities on the 4th of June, though not more than sixty names were handed in to the quartermaster-general. At Benicia, when Johnson found that no arms could be obtained from General Wool, he threatened to bring down twenty thousand miners to destroy San Francisco; but Sherman suggested that perhaps the miners might take the opposite view of affairs.

Now, said the men of authority *jure divino*, now we shall see what we shall see. Hitherto although the men of Belial have acted against the authorities of the city they have not persisted, being under the ban of the state executive. We shall see how this political excommunication sits upon them, how the members will act, knowing that every day they are living in open violation of the laws of their country and laying themselves liable to the same penalties which they are endeavoring to inflict on others. Henceforth there is no question as to the attitude of the Vigilance Committee. Every act now, as an armed organization, is an act in open rebellion against the commonwealth.

All blame for the consequences was, as a matter of course, thrown upon the Committee. "We can scarcely imagine any criminality so utterly fiendish," they cried with hands in holy horror uplifted, "as of malice aforethought, with all the deplorable consequences before their eyes, to involve this city in the frightful scenes of carnage and devastation, which must result from a perseverance in the present course of the Committee. We cannot believe that men in their proper senses, if indeed they be in their proper senses, can deliberately lend themselves to the perpetration of such a frightful crime. To dream that they can succeed is perfectly idle. We beg them to consider this, that the governor's proclamation once

issued it is impossible for the state to recede. The entire force of the state must be called out to suppress the insurrection, and even if that should be insufficient the federal government is bound to lend its assistance. Are the members of the Committee aware what crime they are committing since the issuance of the governor's proclamation? They are guilty of treason; and for those found fighting with arms in their hands against the constituted authorities the punishment is death by the halter. Even the most sanguinary among the members have not, we presume, any ambition that the crown of martyrdom shall descend upon their heads after that fashion."

With all their legal lore, their pugilistic ground and lofty tumbling, their skill in blood-letting, and their chivalrous devotion to their sacred shadow, the law and order opposition was a series of blunders from beginning to end. How marked the contrast between the men and the principles involved, their plans, and the execution! One passionless, determined, efficient; the other petulant, wavering, weak.

The following extract from a communication to the *Bulletin* of June 6th points to a phase of the movement unnoticed hitherto by journalists, namely, the fatal consequences of hesitation or surrender—although I do not agree with the writer if he means to assert that revolution was the duty or purpose of the Committee. They may have placed themselves in the position and incurred the penalties of revolutionists, but to revolutionize the government was no part of their purpose. "The Executive of the Vigilance Committee" says this writer, "have a great work before them; it is in a revolution of the official power of the state. The right of revolution is an inherent right. We are in a condition of revolution; we have as a body placed our necks in the halter, and if we stop short of changing the administration of the laws from the hands of corrupt and inefficient men, then we voluntarily place ourselves on untenable ground. The

existing revolution is right or wrong. If right, it must be effective and complete; if wrong, we are subjects of punishment. The question must be placed upon the broad ground of the right of revolution, and not stop short of a connection with cause and effect. We cannot recognize the power now in the hands of corrupt and inefficient men. If we do, then our own action being legally wrong, we are without moral power to sustain us. This conclusion is self-evident, and at a glance presents to the mind's eye the magnitude of the questions involved in the existence of an *imperium in imperio*. The people provisionally, or the corrupt office-holder must rule. It is folly to attempt to dodge the question. We have arrived at that point of action and we must meet the question boldly as men and patriots."

Courts of law were in bad repute in those days. Venality and corruption sat upon the bench in the form of duelling, drinking, fist-fighting, and licentious judges. Where the people looked for justice they found too often jokes and jeers. It was not uncommon to see a judge appear upon the bench in a state of intoxication, and make no scruple to attack with fist, cane, or revolver any who offended him. Two prominent magistrates bore the significant sobriquets of Mammon and Gammon. The universal absence of restraint and indifference to conventionalisms were as conspicuously apparent in the supreme court of the state as elsewhere. Justice Terry was bitterly opposed to the Vigilance Committee, and the Vigilance Committee did not admire Justice Terry. On both sides was present a tantalizing fear engendering courage. It was unwise in Terry, one would think, to issue a writ of habeas corpus to be served on Mulligan. It was unwise in the governor, in the then excited state of feeling, to attempt to press matters to an issue by calling upon the militia to assist in serving the writ. It was unwise in General Kibbe, a state military officer, to demand the two cannon claimed by the state then in

the possession of the Committee for the purpose of directing them against the people. All this was unwise even if backed by sound policy, because these men had not the power to execute their threats, and the people knew it, knew that if the politicians persisted there would be blood spilt needlessly; and that would not be all, for if San Francisco was attacked such a whirlwind of excitement would be created throughout the state as would sweep every United States soldier into the sea. General Wool better understood the position, pregnant to him as it was with delicacy and responsibility.

Chief-justice Murray left Sacramento suddenly on the 11th of June, his friends saying that he had gone in search of a silver mine; others, that the publication of the Committee of Vigilance manifesto and the free comments of the press upon his manner of life hastened his departure.

There was another of the court judges, in illustration of whose character I will cite one incident which I find in a daily journal:

"On the night of February 17, 1854, James P. Casey, William Lewis, James Turner, Martin Gallagher, and others entered the Mercantile Hotel, brutally beat the inmates, destroyed property, and committed other depredations. The few police who interfered to preserve the peace were overpowered, roughly handled, and were obliged to seek reënforcements from the marshal's office, and after a severe and desperate struggle they succeeded in safely housing this band of desperadoes in the station-house. On the same night, and before they had become familiar with their quarters, the prisoners were released from confinement by a writ from one of the judges of the supreme court, and after carousing with the same corrupt judge in the bar-room of the Union Hotel, and receiving a public assurance from him that his friends should not be punished so long as he had the power to protect them, they returned to renew their fiendish

assault on the proprietors of the hotel. Next morning, after a hurried and unlawful hearing before this same model judge, they were discharged from custody, and the mayor of this city was insulted when he expressed his indignation at the shameless proceedings."

All this was more shocking of course to northern men of sober lives and puritanical principles than to citizens from the south, who were more accustomed, not only to the easier conduct and looser lives of the male portion of the community, whether brothers or husbands, but to the tenets of their political faith, and the mainsprings of actions underlying their social strata. Many virtues these same southern people possessed not found in so common a degree in the north, but representatives of the two sections had not long enough mingled here in California as yet to fully understand each other.

The letters following give us a little insight into the character of Alexander Wells, a justice of the supreme court of the state of California. The first is addressed, "Hon. Judge McGowan, at Madame Du Bon Court's Fashionable Residence, Pike street, San Francisco." This was then the most disreputable quarter in the city.

"San José, Sunday Morning, 5 A. M.

"My Dear Old Ned: —

"The matin bell of the convent is just ringing—I have two hours before the stage starts, and improve a portion of them to address you. French informed me that you and Vi. Turner were coming down here on Friday. I put some wine in cool, killed two of my fattest fowls, bought a watermelon that weighed nearly thirty pounds, had a good dinner prepared, drove out to Santa Clara to meet you, and lo, and behold—No McGowan or Turn Verein appeared. Yesterday again I drove down to Santa Clara to meet you, and although, like Manfred, I cried 'Appear! Appear!' no appearance was entered.

"And now, you rusty old broken-down, hack-horse, spavined, wind-galled politician—you infernal old schemer—you dreadful and to be dreaded shoulder-striker—you melter of wax (candles)—you stuffer of ballot-boxes—you, who reside at a French boarding-house of equivocal character—you luxurious dog who lives on the fat of the land, and never said gruel once—you ex-member of the judiciary department who exercised admiralty jurisdiction—I say unto you 'roll your bones,' for the fatted calf shall not be killed again for you or Vi. Turner, nary time, if I may be allowed to indulge in the classic language of Pike County.

"I want to come to San Francisco but am afraid to meet our boss—How is he? Of course he chafes and worries, and 'sweats under the burthens of this weary life;' but I think that the prospect before him will brighten when the smoke of this last battle has cleared away. They say that the darkest hour of night is just before day. Our friend will succeed eventually.

"Did we not do well in Santa Clara? Last year the whigs had 680 majority, and we beat them this time on a majority of our candidates over 600. We should and could have elected the other assembly man (Senter), but his own township went against him by default. I drove down to his precinct early in the morning, and they told me it was alright; but at night over forty votes in his neighborhood had not been polled. He made no effort himself, and as it was, was only beaten nineteen votes. A gallon of whiskey and a four-horse wagon would have secured them for him, and him for us. So it is—how slight is the thread upon which hangs the destiny of man!

"These Pike chaps won't vote till they get their drink. One of 'em said to me, 'I haint had my whiskey yet.'

"Kind regards to our mutual friend, and to all those who inquire about me in a friendly spirit. Ever yours truly, ALEX.

"P.S. Don't show this for Christ's sake! Amen."

The next is marked confidential:

"AUBURN, PLACER COUNTY, August 12, 1853.

"NED, MY DEAR FELLOW:—

"It is all right. The whole ticket will be elected by a large majority. Do not be surprised if I should run ahead of the ticket a long distance, and be not astonished if I receive 10,000 majority. The talk about disaffection is all nonsense; it is like the milk sickness in Ohio, when you get to a town or village, they will tell you 'we haven't got it here, but about ten miles off yonder they have it awful bad.' You get to the place 'off yonder' and *they* will tell you, 'we haven't it here, it's about ten miles further off,' and so it is as to the pretended disaffection. I have not been able to find any of it yet. My sincere belief is, that Bigler will run even with the ticket in every county except San Francisco. In El Dorado, Waldo will run far behind.

"I spoke at Gold Hill last night and at Auburn the night before, to-night at Grass Valley, etc. I shall speak every night from this day until the 22d. I shall visit Nevada, Yuba, Butte, Shasta and Klamath, before I return to San Francisco.

"Now, my dear Ned, keep this to yourself, do not begin to brag, but pick up all the little bets you can get on Bigler's election even. It is the surest thing in the world.

"Have you noticed that the *San Joaquin Republican*, a whig settler paper, has put up my name with Waldo's, and taken down Tod Robinson's? San Joaquin is a strong settler district, and it is a very populous county. Waldo turned up here yesterday and we corralled him. I have more good things to tell you when I return than ever you heard. Waldo is a B. B. F.

"Oh! oh! Raggery, oh!
What shall we do for poor Billy Waldo.

"Waldo told me this morning that he was satisfied that I should beat Tod Robinson badly. Information for which I did not have much need. Try and make a good county and charter ticket for God's sake.

"Show this to Welch. In haste, your old and faithful friend,

"ALEX. W——.

"Joe McCorkle sends his love."

The supreme judge, full of chivalrous law and order, wishes to fight a duel.

"MR CONNOR:—

"SIR: Having been informed by yourself that you are personally responsible for the articles published in the *Alta California*, reflecting upon my action in a recent case, may I hope that your responsibility shall answer unto me? And that you will authorize some friend on your behalf to meet some friend of mine to arrange the time and place where the misunderstanding can be properly explained or arranged.

"I am, very respectfully, yours,

"ALEX WELLS."

Evidently Ned had asked the supreme judge for money, whereupon the latter grows jovial and facetious:

"MY DEAR OLD MAN:

"I had the pleasure of receiving your note of yesterday. The next thing is, to set them all to work and make provision for a court-room and library. Rather than live in this bay horse town I will go to the one horse town. Here there is too great a PRESS-*ure* upon us. The *Times and Transcript* having skinned me on the *habeas corpus*, and pulled the wool over the eyes of certain friends of ours (as it is thought by the knowing ones on the other side), is now pitching into P. C. & Co. most unmercifully. Poor Joe has warm times. Well, as Meagher says, 'It is not always summer with the Kings!' Cook sailed yesterday. I trust our dinner won't be cold to-morrow in consequence thereof; but hope all is Wright. Is there any way to get even? Remind Wilkes that Purdy (St G., etc.) wants authority upon this parliamentary question: 'Can the Senate, while considering a Bill, dispose of the whole subject-matter by an indefinite postponement, when such Bill does not include the whole subject-matter?' They may postpone the bill, but not the matter. See *Jefferson's Manual; Reports of Discussions on Parliamentary Law in House of Delegates of Virginia; Debates in Congress; Minutes of debate and decisions in English House of Commons.* The position is sound. Who will deny it? or, rather, let me ask, Who will sustain it? If there is any one good parliamentary lawyer in either House he or they can demonstrate the correctness of this position. But you don't want law. The reason for it will show that a SNAP judgment upon a Bill cannot reach the whole subject-matter! Is there not an intelligent lawyer or speaker in the House? If there is let him show these points; which are unquestionably

sound. I have suggested to Wilkes, Casserly, Hager, and Field. Probably Field would do best if the others are engaged so much as to be enabled to devote their whole time to it. Would to God that I were foot-loose and could take a hand in myself. But you remember Hood's lines:

'When both legs were shot off,
He then laid down his arms!'

But do not be discouraged. It MAY be all right yet! TRUE-itt is, we are in a PECK of trouble, and the GRUEL is very thin, but with the help of the *Lord*, if we are all well *Garri-soned*, and no *Noble Romans* about, we may be enabled to PIERCE the centre of the enemies' columns.

"Don't, for mercy's sake, go and show this damn nonsense to any of your friends.

"Bless you, old man! If I had any money to send to you by way of loan, to relieve you from the distresses of which you complain, believe me I would send it to you at once; but I am bankrupt in purse and credit, and, alas! in heart too!

"Sam Bell wrote to me to say that no appropriation had yet been made. Sam is a good fellow, but if any more such letters are sent, and I can't get any money, I shall cease my laborious efforts to accomplish myself in Literature and '*Belle's Lettres.*' Excuse all this. I am in a happy humor, and love to discourse in my sober moments with such pious men as yourself.

"Wife and child all well. Myself in feeble health, but good spirits.

"ALEX. W——."

The chief-justice of the supreme court himself hob-nobs with Ned:

"NEW YORK, June 19, 1853.

"DEAR NED:

"I have rec'd your letters and have answered you, although you write as though you had not heard from me. I had intended to leave here to-morrow, but arrived too late to procure a ticket in the steamer; which I regret, as I am very sick of the white settlements. My health has improved, and I am anxious to get back to God's country. You don't know how disgusted I am. I shall leave positively on the 5th. Bill is in Philadelphia at your wife's, and I shall call before my return. See Weller, Gwinn, Latham, and McDougall about your boy before they leave. They can do it. Don't neglect it; you owe it to him. My regards to all. Yours,

"MURRAY."

The Vigilance Committee they said were guilty of treason, murder, insurrection, kidnapping, accessaries in murder, forcibly obstructing officers of the law, of misdemeanor, and liable to individuals for false imprisonment. One would think it needless to reiterate so long a catalogue of crime, for if guilty of the first, as alleged, that were sufficient.

On Friday the 6th of June matters assumed a more warlike aspect. The contending factions were both busily engaged all day in preparing for the threatened contest. Recruiting on both sides was active, but by far the greater number joined the vigilant ranks, which were now swelled to about six thousand fighting men. The law and order party claimed in the morning to have three thousand enrolled, and that their numbers by evening would be increased to ten thousand; but on searching the facts in the case I am unable to find more than about six hundred men. Sherman himself claimed but eight hundred. Fort Vigilance, as the head-quarters on Sacramento street was now called, was strongly fortified and every precaution taken against sudden attack. A thirty-two pounder was moved up from North Point and planted in front of the premises, with its ugly-looking muzzle pointing up the street. Two cases of muskets, the property of the Wallace Guard, were found in the cellar of a saloon and seized by order of the Committee. In the evening the grand marshal assembled his forces for instructions and drill, and the seat of war presented a very animated appearance. Thousands of spectators gathered in the streets watching the preparations with extraordinary interest. No demonstrations, however, were made by the opposing party. A strong guard was detailed for night service, and quiet at length settled on the city.

Just at this time Sam White, a gambler, shot William Flory, police or sheriff's officer at Sacramento; and a murder at Coloma, committed under aggravating circumstances, was announced. Reports were flying over the city the afternoon of June 9th to the effect that committees of vigilance in these places had seized and hanged the criminals, and that they were ready at a moment's notice to march to the assistance of San Francisco. This together with the news from Washington of the villainous murder committed by

Congressman Herbert, of whom more hereafter, continued to keep excitement up to a feverish pitch. Although there was comparatively little surface demonstration and still less bloodshed there was an intense moral struggle going on, a mortal combat for the supremacy between good and evil. One or the other must be killed, and the Vigilance Committee were determined it should not be the former.

Throughout the whole excitement and up to this time, there had been many citizens who, though favoring the Vigilance Committee, had never joined. On the 11th of June a public meeting was held at the auction-rooms of John Middleton on Montgomery street, for the purpose of taking steps to organize a number of independent companies, which should hold themselves in readiness to aid the Vigilance Committee should circumstances require it. D. O. Shattuck took the chair, and E. M. Earle, W. A. Woodworth, L. Maynard, Abel Guy, Daniel Gibb, and others were nominated to draft resolutions. These resolutions condemnatory of the governor's action and recommending the Committee to the confidence of the people were submitted to a large and enthusiastic meeting the following evening, and adopted.

This association, though hybrid in its character, added strength to the vigilant party. Yet I can but feel that the action of these citizens would have been more generous had it been taken earlier and had it assumed a more beneficial shape. If one party was right and the other wrong, why not join the right party early and heartily? I see two reasons for this tardy and independent action. First, there were those, lawyers and officials, who felt prohibited by their oath of office against joining an insurrectionary movement, yet their scruples did not prevent their associating and saying: Though we are not insurrectionists, we will be if necessary; though we may not break our oath, yet we will if the governor persists. Secondly, there are always those, careful, conservative

men, who not only like to be on the winning side, but pride themselves in having their names enrolled high and prominent on that side. It was by no means certain at the outset which would be the successful party. If General Wool, for example, had lent the governor his aid the consequences would have been most serious. The members of the Vigilance Committee might be called upon to lay down their lives, might be subjected to harassing litigation, might be deprived of property and citizenship. In the eyes of the law they were guilty of treason, and if they failed they would be punished. By this time it was quite sure they would succeed. Right and might were with them. And that was just the sort of honor these conservatives coveted. Nor would I detract from them one iota of merited praise. Give them their penny though they came in at the eleventh hour; but let not their names be mentioned beside that noble band who threw into the cause themselves and all their possessions, boldly cut loose all means of retreat, and bore the burden and heat of the day.

A great demonstration was made by the people of San Francisco in front of the Oriental Hotel on the 14th of June. Several thousand were present and were addressed by a number of speakers. "The Vigilance Committee," they said, "was strong, but the people should support it." It would seem that it took these speakers just one month to find that out. "No half-measures must be pursued," they cried. What had been the measure of their measures hitherto? But I will not cavil. The people liked it, saw no Irishism about it, cheered lustily, and went home feeling, every man of them, a patriot. This was an inflation of the auction-room movement instituted three days previous. Harmless, but very safe.

"No revolution other than a moral one," says the Sacramento *Union* of the 12th, "can be produced in this state, unless the commander-in-chief gives his order to fire upon the citizens of San Francisco.

Should this fatal order be given such a storm of revolution would sweep over the state as never has been witnessed in these United States. In its irresistible progress it would not leave so much as a vestige of the present state government and state officers. If no order of that bloody character is issued, if the present military enrolment is discontinued, if the governor will suspend or revoke his proclamation as he may do legally and honorably—for it is always honorable to correct an error—the waves of public commotion will subside and civil war with all its horrors will be avoided."

To a peace committee of the citizens of Sacramento who waited on the governor the 13th of June with a petition signed by two thousand persons asking the governor to withdraw his proclamation, his excellency blandly gave the assurance that he would postpone the attack on the Vigilance Committee to the latest possible moment. Considerate, very. "See our citizen soldiery," Johnson and Sherman might cry, "invisible in war, invincible in peace!"

Then the good citizens of Sacramento attempted reconciliation between the state's offended majesty and the crime-fighters of San Francisco. After a long interview with the governor a deputation went down to the Bay on Sunday the 15th of June. They waited upon the executive committee and were entertained with the greatest respect, but no important results attended their efforts. The Sacramento Guard voluntarily disbanded rather than be ordered to help serve the writ of habeas corpus against the will of the San Franciscans. The people not alone of San Francisco but of the entire state were upon one side; the governor and a few fire-eating and inflated officials were on the other.

The men of order and of law complained bitterly of the invasion of their sacred household rights in the domiciliary visits which they accused the executive committee of having instituted in their search for criminals. They had so little to complain of that

they made the most of this alleged outrage. They were likewise in a morbid ill-humor from the success of the movement, their reason seemed befogged by the exhalations of passion and the lust of power, and as usual in advocates of a bad cause when beaten they made irony of legitimate argument by throwing dirt and calling hard names, mixed as a matter of course with more or less lies. Members of the Committee were deeply dyed villains, traitors, despots, and enemies of public peace. Casey and Cora whom they murdered were saints beside them. They had much to say about the persecution and the prohibition of free speech. Hear the San Francisco *Sun* rant upon the subject. I give it only as a specimen of how insane a man can be when beaten and angry. I would first mention that the executive committee had before this passed and published a resolution to the effect that no restrictions whatever should be put upon the free expression of opinion either by persons or by the press. The press was absolutely free, and none knew this better than the press itself. How should the press have been permitted to continue its torrent of abuse for weeks when by the uplifting of their finger the executive committee could in one moment have hurled it and its editors into the bay! Their own libertinism is the strongest testimony possible of their liberty. All the people did to call forth the bitter animosity of the political and chivalrous journals was the withdrawal of their advertisements by certain merchants, a thing one would think they had a right to do without calling down upon their heads such editorial scurrility as this:

"This is the freedom of the press in California! Let us hear no word of it! The press of Russia is as free at this moment as is the press of San Francisco with this exception and this only: There, the treasonous fulminator of public murder, the open contemner of the laws of his country, would be consigned to the knout; while here, they indict editorials on outlawry in general, and the union of mob violence and political fanaticism in particular, unharmed and unmolested. With a 'committee of highly respectable and wealthy citizens' at their back they fear no molestation, but can traduce the patriotic and vilify the institutions of their country to their hearts' content."

No one knew better that this was not true than the man who wrote it.

The same editorial turns and addresses to the Committee the following fearful prophecies which seem to have been written with perfect freedom, indeed with more freedom than decency:

"The brand of treason is upon you, and you can no more escape it than could Benedict Arnold in other days. As to the mercenary wretches who act as excusers through the press, the *Bulletins* that cry more blood; the namby-pamby *Altas* that have wriggled and wriggled out, until they have wriggled into your patronage, the so-called *Californias* that have fungus-like sprung from the putrefactions of the day, to fill the air with their noisome stench of treason, and the lesser fry of traitors of various vileness and calibre, they will have sunk beneath the indignation of reasserted right, of law, and of fealty to our common country. Their tory sheets may be preserved as specimens of the unpatriotic spirit of the times and as affording evidence of the trials and troubles through which the friends of their country are now passing."

Sound logic, truly; coolly and clearly put. He whom such will not convince is obdurate indeed. And this is a fair sample of the law and order editorials of the day. They were rank as murder, smelling to heaven.

Both parties were loud in deploring the causes which led to this unhappy issue; both were active and eloquent in harrowing the horrors of civil war, and each threw all the blame upon the other.

"Let them beware how they lay the city in ashes and fill our streets with the dead bodies of our citizens," said one.

"A fearful responsibility rests on their shoulders," sighed the other.

CHAPTER XIX.

SWIFT AND SILENT MECHANISM.

If there's a hole in a' your coats,
I rede ye tent it;
A chiel's amang ye takin' notes,
And, faith, he'll prent it.
Burns.

SCARCELY was the Committee formed, when communications began to pour in from interior towns and delegations proffering sympathy and proposing alliance. Copies of the constitution were desired with authority to organize as branch or auxiliary associations. It speedily became evident that the Committee must soon decide whether it should be led beyond its original purpose and prepare to revolutionize the state, if the authorities organized a too formidable opposition, and after driving the existing officials from power to arrange for the election of their successors, who might perhaps be men of higher character or purer motives, or better able to secure the public welfare and administer justice.

The leaders quickly found that in grasping the reins and mounting the seat of power they had assumed unexpected responsibilities, and that time and events were whirling their car along untried paths and toward perils the very magnitude of which kindled a desire to grapple with their possibilities.

To all such advances the Committee returned a kind but firm refusal; and the brevity of the discussions upon these momentous issues was creditable to their foresight and patriotism. While some few

argued that in their novel situation it was unwise to refuse assistance which might soon prove vitally important, and while others were dazzled by the prospective glory of emancipating a whole state from misrule, and laying better foundations for what their enthusiasm pictured as an empire destined to rank among earth's proudest, and while yet others felt perhaps some temptation toward a policy which, if successful, as seemed to them probable, might almost by a single effort relieve them from both the personal and the pecuniary peril which all felt to be menacing, the wiser ones if attainable, would be an indescribable misfortune, weakening the nation's reverence for the institutions it had established, and setting a precedent toward those forcible revolutions which had unsettled and enfeebled our sister republics.

No, not revolution, but reform. Our government is God-given. If we were half as dutiful as our institutions are excellent, we would be the happiest and wisest people on earth. There shall be no rending asunder where we most admire; it is not our purpose to destroy but to sustain.

It required but one glimpse into the gulf over which these glittering phantoms had been hovering to convince the few who for an instant had been dazzled, that such *ignes fatui* could only be engendered by a principle of decay, and that they must continue their march in the comparatively narrow path of strictly local reform; resolute, not to be lured by any prize or shaken by any danger. Let all who would, organize and declare war on crime; but let each locality act for itself, and be responsible only to itself. Yet, while firmly avoiding entangling alliances, all might coöperate in sentiment and good-fellowship in joint prosecution of a noble work.

Two friends on the night of the 9th of July were sitting in the reading-room of the Rassette House discussing the doctrine of hell. Unable, as were not

the early fathers, to arrive at an agreement as to the nature, locality, and dimensions of this ancient and mysterious institution, they fell to fighting about it, as many a man and many a nation have done in time past. The battle began with fists and ended with pocket-knife stabbing, so that one or the other of them was likely soon to go to hell and see for himself what sort of a country it was. At length they were parted, and shortly after the one who used the knife fell into the hands of the vigilance police, which was hell indeed, who took him to the Committee rooms, but after due consultation the Executive concluded it was a matter more befitting the court than themselves. Hence he was turned over to the regular police. It was chronic crime alone the Committee cared to touch; cases upon which the ordinary medicine of law courts had no effect. Pugilistic electors, stabbing supreme judges, and political pistol-shooters, these were the game the vigilants hunted.

As in the former Committee, thousands of letters of a personal character, charging persons with misdemeanors, were received, written by men and women apparently under the impression that the Committee appeared in the rôle of some universal panacea, pain-killer, or patent medicine for the cure of every social evil. Even if accusations were both criminal and true it was no part of the Committee's intention to enter the arena of private quarrels, or to undertake in any wise to establish equity between men or to do any work which the courts could and would do.

Another feature of the association was the consideration for propriety and appearance with which everything was done. The humblest of them all having voluntarily and with no hope of reward come forward and written down his name in the service of society, felt himself a patriot equally with the highest, felt that he was setting an example, and that he would do it well. Let it not be forgotten that the rank and

file, those who promised obedience, were of the same stamp as their leaders, all honest, respectable men, and many of them as wealthy, cultivated, and able as any who sat on executive chairs.

It appears that during the first few days of the organization, liquors and cigars were ordered in and used in common, upon the theory characteristic of California, that a community unable or unwilling to provide these luxuries for its preservers was not worth the preserving. The 23d of May, however, the Committee thought better of it, or rather, they had not hitherto thought of it at all, for on that day they resolved, "that the cigars and liquors used up to this time by the executive committee be paid for by equal subscription by ourselves, and that hereafter each member shall furnish himself with such luxuries should he require them; so that this community cannot say that the Committee have spent their money uselessly."

The Executive were no less stringent in regulating their own followers than in guarding the city from the depredations of villains. There were many in the community who sympathized too strongly with the Committee, whose zeal ate up their judgment, who hovered upon the verge of mobocracy and would have fallen into that anarchical pit but for the steady grasp of vigilance upon them. "There seemed to be a great fear on the part of bankers, merchants, and newspaper men of mobs," says Mr Manrow, "and they sent frequently to the Committee, and we always sent word to them that if there was any anticipation of that kind we would send guards, and we frequently did so—posted guards to keep the people quiet. We had a large police force in our body and many detectives constantly on the watch. We knew all the time, through this force, what the law and order people and others on the outside were doing. I remember that one of the detectives called me out one night and said that he had been to a meeting of

the Broderick Engine Company, and they had passed a resolution to kill me on my way home. I knew at that stage of the game they would go after any one of the Committee. But they made no attack, and notwithstanding this resolution I rode up that night about twelve o'clock with my groom who came for me."

Neither the friends nor the enemies of the Committee supposed its work more than begun by the punishing of the assassins of Richardson and King. Thinking men fully realized that it was necessary to break in pieces the organized rings which by fraud and violence had attained official position in order the more effectually to plunder the public—rings composed of political thieves, differing only from the more manly ordinary thieves in stealing according to law and in making the law fit thieving rather than quarrel with it. It was necessary to punish or drive away the brutal instruments by which these rings had defeated the frequent efforts at reform made by good citizens.

Again on the 30th of May the board of delegates met to confirm or disapprove of what had been done. The testimony against Mulligan, Gallagher, Carr, Kearney, and others was read and the verdict of the Executive announced. The delegates signified their approbation. The case of Mr Edward Bulger was in like manner disposed of. The 2d of June the black list was taken up and John Crowe, Ira Cole, James Hennessey, J. W. Bagley, James Cusick, Terence Kelley, James Claughley, Jacob Retchit, William McGuire, Robert Cushing, and Michael Brannigan, were ordered to leave the state. John Cooney was warned to reform his ways, for the eyes of the Committee were upon him.

The trial of Duane was begun the 3d of June and concluded next day, resulting in a sentence of transportation. The following preamble and resolution are found upon the record: "Whereas, the evidence

brought us establishes conclusively that Charles P. Duane has for years been a disturber of the peace of this community by repeated assaults, often with deadly weapons, upon unoffending citizens, and by his interference with our elections; resolved, that he be sentenced to leave this state in such a manner as shall hereafter be determined, and warned never to return under penalty of death." The case of Brace the murderer, then in jail, and whose term of imprisonment expired the 5th of June, was referred to a committee. The black list was called up and conned every day.

Meanwhile Olney and his captains were active drilling the military. There were daily excitements sufficient to keep alive their interest, sudden calls which brought the forces out upon the street in martial order.

In view of the impending collision with the state authorities, the committee on military affairs, at a meeting held the 9th of June, proposed a reorganization of their forces which should embody the entire association, on the following plan: There should be formed three infantry regiments, composed of two battalions of four companies each; one battalion of artillery, one battalion of cavalry, and one French legion. The field officers to be for each regiment, one colonel, one lieutenant-colonel, and two majors; for the battalions of artillery and cavalry one major each; for the French legion one colonel and one lieutenant-colonel. The officers to be elected, the colonels and lieutenant-colonels by the executive committee, and the majors by the respective battalions. All were to be kept in readiness to march at a moment's notice at the order of the grand marshal. Present quarters were pronounced extremely insecure, being open to attack from Front and California street sewers, Commercial street, the rear alley, and also being commanded from every hill in the city, besides being weak in defence from

other causes. This committee then recommended immediate removal to more secure quarters, and suggested California street near Mason. No removal, however, was made, the executive trusting more in men than in walls.

There were some few accessions of horsemen to the vigilant guards on Tuesday the 10th of June. General drilling continued, but the feature of the day was the artillery practice on the street before the Committee rooms under the direction of F. D. Johns. The cannons were collected from various sources, some of them being ship's guns clumsily fastened to running-gear with ropes and chains, but for purposes of defence they would do effectual service. All the guns were to-day discharged, cleaned, and reloaded, and the cannon made ready for instant service. In the evening between two and three thousand were in arms, and a stroke of the vigilance bell would have placed as many more by their side. During the afternoon young America took the field in the form of sixty little boys, who assembled on Stockton street, and with striped pantaloons and sticks for swords and guns, marched down to Sacramento street, drew up in line of battle in front of Fort Vigilance, and demanded of the Committee that they should lay down their arms and disband or treat. Certain spectators, enjoying the sport, filled their pockets with nuts and candy, and in return the infant band offered to search for McGowan, or attack the law and order forces if permission was granted them. During the night rumors having reached the Committee of a threatened attack, a breastwork of sacks filled with sand was ordered thrown up in front of the rooms. Drays loaded with the sand-bags began to arrive about one o'clock in the morning of the 11th, and a fortification two hundred feet long, thirty feet wide, and five feet high, with embrasures at either end for cannon, was constructed. Behind this breastwork the artillery was placed in position so as to rake all approaches. The guns were

well manned, and sentinels stationed at every outpost. The night, however, passed quietly. Thus far the law and order forces comprised thirteen companies of from fifty to seventy-five men each. No serious fears were entertained by the Committee, but they determined never for a moment to be off their guard. Indeed, the time was rapidly passing in which it were possible for the governor's proclamation to be sustained. The constantly increasing strength of the Vigilance Committee gave their opponents little hope. Loud calls were made for officials to resign. One, Hampton North, city marshal, responded.

This same day the following report was handed the Executive by the committee on foreign affairs: "That the marshal has detailed from each company ten men who have their arms deposited at their respective places of residence, and who have orders in case of a general alarm to report to their commanding officer in two places, namely, in front of the Oriental Hotel, and in front of the Monumental Engine House." They suggested also that the members of the general committee be notified that the signal of recognition recommended in case of attack was a white ribbon placed in the top button-hole of the left lapel of the coat, the rallying cry in case of difficulty the word 'vigilants!' They also reported a secret depository of arms established in the third story of Messrs Arrington's store, and also in the store of J. W. Brittan. A plan for the protection of the building was also proposed, all of which were adopted.

Next meeting the Executive ordered all arms removed from head-quarters except five hundred muskets, fifty rifles, fifty shot-guns, and such cannon as could be used advantageously in case of attack, and that the remainder of the arms of the association be kept part in the hands of members and part in such private depositories as should be designated. This was to prevent the possibility of the entire capture of their arms in case Fort Vigilance was taken. Mr

Smiley offered his store as a rallying-point of the executive committee in case they were cut off from head-quarters in the coming anticipated difficulty.

While proclamations were thus being fulminated, and the military were being prepared to attempt the enforcement of the habeas corpus, the executive committee were quietly shipping from the country the culprits the law so itched to grasp.

A daring attempt was made to burn the Vigilance Committee building, between twelve and one o'clock Tuesday morning the 17th of June. Shavings placed in the rear of the Fulton Iron Works on Davis street between Sacramento and California streets were fired, but before the flames had made much progress they were discovered and extinguished by the vigilance guard.

The black list now occupied the chief attention of the Committee. The committee on evidence devoted their whole time to procuring testimony against odious and disreputable characters, which was sifted and arranged so as to present each in his true light before the tribunal. The accused were then put upon trial and opportunities offered them for rebuttal. The matter was determined and placed before the board of delegates. Finally to the prisoner was disclosed the sentence of his judges, and if convicted, the time of his departure was named, within which time his affairs here were to be settled. From time to time, by steamer and sailing-vessel, as opportunity offered, many thus convicted were shipped out of the country, while others were warned, often under seal, that the ever watchful eye was on them. In all this the greatest care was taken that no injustice should be done; at the same time proof needed not to be strictly legal in order to carry conviction.

I will cite the case of Cunningham as an example. Information convincing beyond peradventure was brought to the Committee that this man was bad, very bad, that he was a false coiner and a robber of the

dead under outrageous circumstances. The district attorney, who was asked to testify, declared that although he knew him to be guilty he could not convict him under the statute, because to do so he must have one of the identical counterfeit coins issued by him; it was the old-fashioned slug, or fifty-dollar piece. The Committee held the case under examination until they were thoroughly satisfied that the man was guilty, and then they banished him from the country.

This was the class of cases which the Committee made more particularly its own. New and legally provable cases they left to the law. More particularly did they decline taking cognizance of cases outside their locality, or what they determined as their jurisdiction—instance the matter of the second mate of the steamer *Golden Gate*. A delegation of passengers the 15th of June waited on the Committee with the request to seize the mate and execute justice on him, but they peremptorily declined taking any action in the matter. The Committee referred the delegation to the United States Commissioner, saying if the commissioner desired their aid they would give it him, but they would not otherwise interfere.

Attention was next turned to improper men in office. At the meeting of June 15th a committee of five was appointed to inquire into and report upon such county officers as should be invited to resign their positions; and also to report who and what power should fill those offices until next election, and whether appointments could be made satisfactory to the committee and to the community. A committee was also appointed to wait on the merchants with a petition for their signature to the president of the United States for the removal of United States Marshal McDuffie.

Another exodus of criminals occurred on Friday, the 20th of June, which was likewise a day of purgation for San Francisco. It was in all respects a busy

day within the walls of Fort Vigilance. Amidst the shipment of prisoners, new arrests, preparations for defence, examination into the conduct of city officials, and multitudinous other affairs, attention was drawn toward disbandment.

Two days before a special committee had been appointed to examine the business affairs of the association, and to report at what time it would be practicable for the general committee to adjourn. It was resolved by this committee and so reported to the Executive on the 20th that no new business be taken up after the 24th instant unless in extreme cases; that the utmost diligence be used to close up all business, and to have all verdicts, notices to leave, and sentences executed before the 3d day of July; that on the 4th day of July a full parade of all troops and of all members of the Committee of Vigilance shall take place under the direction of the grand marshal in conjunction with the president and the military committee, who were charged with all the necessary arrangements; that the executive committee give notice on the 4th of July that on and after the 5th of July the general committee will adjourn and that the executive committee and board of delegates continue to meet, and the general committee to hold themselves ready at all times to respond to the regular alarm-call of the Executive; that in adjourning the committee, they should give notice that the return of any persons who have received notice to leave or who have been sent out of the country by their orders should be sufficient cause for an immediate call for the assembling of the general committee for decisive action. This action was not kept secret; the notice of the 4th of July parade was given out formally and informally to the general body and to the community.

The fact is the committee sincerely desired to avoid collision with the authorities. They were not intimidated by threats, as their subsequent action shows. They were never stronger than now, and they knew

the opposition was not as strong as themselves. But as they deemed their work essentially finished they thought to hasten its close, rather than to prolong it unnecessarily in the face of the intense bitterness of feeling manifested by their opponents.

This, however, was not to be. The history of the Vigilance Committee was not destined to close here. While the hopes of the Committee were freely and publicly expressed, that the opposition would recognize their moderation and respond to their efforts to avoid the threatened conflict of arms, the next day the Committee were advised that the governor and General Boker were on their way to the city, one from Sacramento and the other from Stockton, each with military preparations, and that they would parade in the streets of San Francisco on the day following. General Howard, successor to General Sherman, was receiving government munitions from Benicia, so report ran, and men were standing ready to receive and use them. "This was not peace, but war," says Mr Coleman, "which we were trying to avert." There was but one thing to do, and that was to intercept those arms and bring them to head-quarters, and this the Committee set themselves at once to do.

Never had there arisen in any state an issue which aroused such bitter feelings in the breasts of the minority against the majority. From the first the cry of official incumbents and their party sympathizers was havoc, and let loose the dogs! They would butcher half the city if necessary to wreak their vengeance on mercenary pork and flour sellers who had dared to call in question the ability and integrity of gentlemen of the politico-pistol school. Nor did their all-absorbing thirst for revenge cease with the disbandment of the Committee. It galled their arrogant blood, it intensified their chivalrous hate to see with what consummate skill and dignified self-possession

these base-born *canaille* had so successfully achieved their noble purpose. For months afterward their journals rankled in their impotent rage. The national government, the state government, and the democratic party, they enlisted in their sympathy and against the Committee. Politicians and public menials they could command, but they were not the people.

As one observes, commenting upon the course pursued by the *Herald*: "History is ransacked for illustrations. Rome, France, Venice, the Holy Inquisition in their worst and bloodiest days, Draco, Robespierre were all innocent, and even Cerberus, the watch-dog of hell, is considered amiable when contrasted with the people of San Francisco."

As a rule the Committee were prayed for from pulpits. But a southern divine, subsequently mobbed in his church and expatriated for indulging too freely his opposition to the north in its war for the union, went somewhat out of his way as some thought in publishing in the Philadelphia *Presbyterian* two and a half columns denunciatory of the Vigilance Committee members, which organization included scarcely less than three fourths of his congregation. "In this elaborate epistle," says the *Bulletin* of October 1st, "the Vigilance Committee of this city is attacked in a manner that in our opinion is highly unbecoming in a minister of the gospel. The writer gives as one of the reasons for publishing his letter in Philadelphia, that he wishes to avoid 'local prejudices and momentary excitements,' having been 'told that I must pray for the Committee and preach in their behalf, and that if my sentiments against them were known I should lose my congregation.' Coming from one who claims to be impartial and unprejudiced and who affirms that his mission is to pour oil on the troubled waters, and not to create wrangling among his brethren, it must meet, as it merits, the severest condemnation of every Christian, or we have yet to learn in what Christianity consists." In answer to

which last clause of the quotation it has been suggested to me that in this instance Christianity consisted in—first, love of notoriety; second, love of sinners, the pistol and bowie-knife chivalry being regarded as chief; and lastly, love of formulas and fanatical dogmas. In this instance the zeal of the clergyman was rewarded by glorious martyrdom; he being hanged in effigy before his church the next Sunday and having the pleasure of a newspaper controversy for a few days thereafter, both of which he hugely enjoyed.

There were feuds and bitter animosities between parties, between individuals, and between friends and brothers; hate rankled in the breast of multitudes. Fostered by national prejudices, by partisan pride, and by individual interest, the conflict on either side assumed an intensity seldom seen. There is no hate like the hate of a brother; there is no war like civil war; and these men, hundreds of them on both sides, were ready to spill the last drop of blood before they would yield one jot.

But in the ever varying life and population of this most cosmopolitan of cities these infelicities were soon forgotten. In the after and more thoughtful consideration of the events and of the motives which engendered them, what appeared so strange to those on either side, what appeared so monstrous, so far removed from rectitude and good morals, was regarded with kinder and more charitable eyes, and the nobler hearted of both factions began to see some shadow of truth in the view taken by their opponents.

CHAPTER XX.

THE GOVERNOR INVOKES FEDERAL AID.

Pin a dishclout to his tail.
Swift.

Besides these active preparations at home, and failing to move to his purpose either the military or naval commandants of United States forces on the Pacific Coast, Mr Johnson appeals to Washington.

On the 19th of June, 1856, the governor wrote the president a full account of his troubles, and despatched his message by the hand of R. A. Thompson and F. Forman, who sailed by the steamer of the 20th instant. These gentlemen were to supplement the governor's appeal and furnish such detail as circumstances and their powers of graphic description could command. Their duties were defined in their commissions, that of Mr Thompson's reading as follows:

"State of California, Executive Department,
Sacramento, Cal., June 18, 1856.

"Sir: You are hereby deputed on behalf of the State of California to proceed by the most rapid means of conveyance to the city of Washington, and make application to the president of the United States for the use and services of such arms and ammunition, together with the aid of the naval and military forces of the United States, as may be required by the executive of this state in the suppression of the existing insurrection in the city of San Francisco; and also to perform generally such duties as may be deemed proper and necessary in the prosecution of such mission. In the performance of this duty you will be aided by Colonel F. Forman of this city, who is appointed by me to the performance of similar services. I will transmit by him the necessary papers relating to this subject. I regret to say the arrangements which it was believed could be perfected, whereby a sum of money

could be placed at your disposal for the expenses of the trip, have proved unsuccessful thus far, and reliance will have to be had on the faith and credit of the state for the repayment of your expenses, also for the value of the services to be rendered by both of you gentlemen. I will write you more fully my views to-morrow.

"J. NEELY JOHNSON, *Governor of California.*

"*Hon. R. Augustus Thompson, San Francisco, Cal.*"

Although the governor's letter is somewhat lengthy and repeats much that has already been written, I give it in full, deeming it important that every side of this subject should be laid before the reader with equal fairness. As a matter of course due allowance must be made for the *ex parte* statements of a man brimful of passion and never over-scrupulous as to his facts.

"EXECUTIVE DEPARTMENT,
SACRAMENTO CITY, CAL., June 19, 1856.

"SIR: In view of the existing condition of affairs in the city and county of San Francisco in this state, I am constrained to call upon the general government through the intervention of your excellency for aid and assistance in the enforcement of the laws of this state; and that you may better understand the propriety of readily granting such requests, I would beg leave to present a brief recital of events which have recently transpired and rendered necessary such application. As early as the 16th of May last an organization styling themselves the Vigilance Committee was formed in that city, secret in its character and to the uninitiated its purposes unknown, except as their subsequent acts have developed themselves. Although the presumption is that the organization had its origin in the events connected with the shooting of Mr James King by Casey on the 14th of the same month, apprehensions were entertained from the incendiary appeals of the press and the public excitement that an attempt would be made to attack the jail where Casey was confined, rescue him from the officers of the law, and deal out summary punishment to him; in fact an effort was made to do so by a mob, prior to this organization, but was resisted successfully. In the mean time the mayor had called on the military forces of the city, numbering some ten companies, for assistance; the sheriff did his utmost to obtain the aid of a *posse* capable of resisting such anticipated attack. It was found that the response in both cases was but limited; not more than fifty or sixty of the military could be depended on; companies disbanded, large numbers of them joined the Vigilance Committee, forcibly placed in the possession of that organization arms and accoutrements, including the only two pieces of artillery belonging to the state which had been issued to them as volunteer companies by the state, and not one in ten of those summoned by the sheriff would obey his call. It seemed as if a universal panic had seized upon the people, and the fear of this formidable organization impelled law-abiding and law-observing citizens gen-

erally to shrink from the responsibility resting on them as citizens owing to the constitution and laws of the state. On the 17th of this month, when it was manifest that neither a military nor a citizen force could be obtained in defending the jail, an armed body, estimated at three or four thousand persons, marched to the jail and demanded the delivery of two prisoners, Casey and Cora. The sheriff was powerless, the few men he had about him would have constituted no impediment in the way of these superior numbers, and resistance was useless; he was forced to give up the prisoners. A few days later this same body, from the windows of their place of meeting, hung the two men referred to. Furthermore they proceed to arrest various individuals, search the houses of many of the best citizens on the most frivolous and groundless pretext, establishing a system of espionage over the conversation and movements of reputable citizens, male or female, wholly unknown to the laws or usages of a republican form of government. At length for one of the parties arrested by order of this self-constituted tribunal, on application being made to one of the judges of our supreme court, he issued a writ of habeas corpus. The sheriff was prevented by the resistance of this armed body of men from serving it; and a few days later the party for whom this writ was issued, in company with several other citizens forcibly transported beyond the state, by different modes of conveyance and to different places—report says China, Australia, and the Sandwich Islands. In the mean time one of the number they had arrested and whilst in their custody, learning his sentence of banishment from the country, rather than submit to it, committed suicide in the cell where they had confined him. On the 3d day of the present month I issued a proclamation, a copy of which I enclose in the form of a printed slip, declaring the county of San Francisco in a state of insurrection. To General Wool I had previously, in a personal interview, detailed the condition of affairs, of which matters he was fully informed otherwise. At such interview he unhesitatingly promised me, on the representation made him that we were almost wholly destitute of arms, and of ammunition we had none, to furnish on my requisition when we wanted them such arms and ammunition as we desired. Within one or two days after the issuance of my proclamation, of which I duly notified him, I made a requisition on General Wool for certain arms and ammunition to be furnished Major-general W. T. Sherman, in command of the state troops at San Francisco, but to my great surprise he refused, alleging that he had no authority so to do in any case. To show him that the necessities of the case were of such an urgent character as should induce a compliance with my request, I communicated with him again, a copy of which letter, dated June 7th, I herewith enclose. To this his reply was as before, a peremptory refusal to furnish any part of such requisition. In the mean time the Vigilance Committee continued to arm themselves with muskets, a large quantity of which they early procured; guns of various calibre, ranging from six to thirty-two pounders, numbering near or about thirty pieces; erected fortifications in the central business portion of the city; proceeded with the trial and conviction of various persons; and now have in their custody several citizens, while others have been compelled to flee for protection and safety to remote parts of the state.

"During all this, warlike demonstrations are proceeded with, members of

their organization, on the streets and public assemblages, and through the columns controlled and directed by them, the most violent harangues and inflammatory appeals are indulged in, both against the general and state governments, and at least one of their organs comes out boldly and defiantly against existing authority and calls upon the people to assemble and form a new government. The power and authority of the state is set at naught. These unlawful proceedings cannot be arrested, simply because we are destitute of arms and ammunition whereby to equip a force capable of coping with them, which, it is now said, numbers six or seven thousand with their sympathizers in large numbers outside. At most we have not muskets and rifles enough to arm six hundred men; ordnance and ammunition we have none. I would therefore most urgently ask that you transmit orders to the officer who is or may be commanding the Pacific division, to issue to the state authorities on the requisition of the executive, such arms and ammunition as may be needed for the purpose of the insurrection; at least the number and quantity specified in the requisition I made on General Wool, as appears in a postscript of the enclosed copy of my communication to him of June 7th.

"I would also urge the importance of transmitting such orders to the officer commanding this department to render such assistance in arms and ammunition at any future period as may be required by the executive for the purpose of enforcing obedience to the constitution and laws, as it is feared the example afforded by the present organization may extend its influence to other localities, in all probability to renew the present one, even after disbanding their forces. In conclusion I would add, without the aid which is now sought at the hands of the general government, the state authorities can no longer afford protection to its citizens or punish the lawless acts this body of men have been guilty of; and with impunity they may and doubtless will proceed with such acts of aggression and disobedience towards the government as will ultimately result in its entire destruction. I would beg leave to refer you to the Hon. R. Augustus Thompson, recently U. S. Land Commissioner for this state, and Colonel F. Forman, now the postmaster of the city, who are deputed by me to lay this communication before your excellency, for a more detailed and minute relation of these affairs than can conveniently be embodied in a written communication. Your earliest possible attention to this matter is extremely desirable.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON, *Governor of California.*

"*His Excellency Franklin Pierce, President of the United States, Washington, D. C.*"

To this communication the president, through Secretary Marcy, made reply in these words:

"DEPARTMENT OF STATE,
WASHINGTON, July 10, 1856.

"SIR: The president has received your communication of June 19th, representing that an illegal association in the city of San Francisco had overpowered by force public authority there, and requesting the aid of the United

States to enable you to maintain the government and enforce the laws of the state. The president has given to the subject the most careful consideration. He is deeply impressed by the anomalous condition and dangerous tendency of affairs in San Francisco, as set forth in your letter, and is prepared, whenever exigency arises demanding and justifying his interposition, to render assistance to suppress insurrection against the government of a state, and maintain the supremacy of the laws in the mode and to the extent of the authority vested in him by the constitution and acts of Congress of the United States.

"In the present case, serious doubts of his lawful power to proceed in the manner indicated by you having occurred to the president, he referred the question to the attorney-general for advisement, and the conclusions submitted by that officer have, on full reflection, been decided by the president to constitute insuperable obstacles to the action now desired of the general government. The report of the attorney-general is enclosed for your information. The president will not allow himself to believe that the prevalence of rash counsels and lawless violence still continues in San Francisco. He confidently trusts that the citizens of California who have suffered themselves to be betrayed, by whatever inducements, into violations of the public peace of so dangerous a character, will already have resumed their obedience to the laws, and that hereafter, instead of assuming to act independently of the constituted authority, they will, as good citizens, coöperate with it in the earnest endeavor to secure a prompt, impartial, and vigorous administration of justice, in the only way in which the life, property, and rights of the people can be protected effectually, that is by faithful conformity with the constitution and laws of the state.

"I am, sir, very respectfully, your obedient servant,

"W. L. Marcy.

"*His Excellency J. Neely Johnson, Governor of California.*"

The spirit of Attorney-general Cushing's opinion is embodied in Mr Marcy's despatch. It is too long for insertion here. The attorney-general says there is no evidence "in what has thus occurred at San Francisco that there has been committed or threatened any act of resistance or obstruction to the constitution, laws, or official authority of the United States." He discusses the powers of the president, under the constitution, to introduce military force into a state, and considers that the present case does not justify interference either by calling out a militia force or in other respects acceding to the governor's request. Even had federal interference been invited through the legislature in due form, the statute authorized him only to employ United States forces, or to call out

the militia of some other state, the law presuming the governor of a state always competent to call out his own militia. There were no conditions of pressing exigency, no deeds of outrage, no shock of battle. The trouble was in the regulations of confederation; no provision had been made for subduing the people of the state to the will of one man. The constitutional power of the state was the Vigilance Committee. This power was not at the command of Mr Johnson. Although the president might have in his discretion the moral power, Mr Cushing did not think there existed sufficient legal excuse for him to grant the governor's request.

Affairs, indeed, were in a singular condition when a governor of a state applies for military aid to be used against a majority of the people who elected him.

The president appeared in no way excited over the condition of things. When asked by Senator Toombs what course he intended to pursue in reference to the requisition of the governor of California, he replied that he should take no action at present, that the legislature must first convene, and if they refused to act it would be the duty of the federal government to interfere. Furthermore, letters from responsible persons in California assured him that existing troubles would probably be all settled within thirty days.

It will be seen by the perusal of these documents that the president wished just then to evade the issue; that he regarded or affected to regard the application as not in proper form, as it should have come through the legislature. He declines to interfere at this juncture, except to protect the men and property of the United States. With all his omissions and misrepresentations the case does not seem sufficiently strong to warrant the general government in interfering.

The attitude assumed by the president and his party forcibly illustrates the unrighteous workings of the governmental system of this greatest of republics. Pierce and his administration were opposed to

the action of the Vigilance Committee, and I believe would have directed Wool to blow up the Sacramento-street building but for the fact that just then parties at Washington were organizing for a presidential campaign, and to suppress an insurrection at that time would have been impolitic. It was well for San Francisco at the moment, that the president of the United States was, as are nearly all politicians, more firmly wedded to party than to principle; but blush, oh! Americans, for your rulers, and seek not among them those who like this same much vilified Committee of Vigilance unselfishly offer their lives, their property, their honor a sacrifice to the moral integrity of their city! When shall we have honest rulers, men who enter office not for purely selfish purposes, and who will not serve in office for their own advancement only and irrespective of the public good? So President Pierce hides his head under a transparent subterfuge and says he cannot suppress insurrection unless application for federal interference be made through the state legislature.

"One thing is certain," argues an able law and order writer upon the present attitude of affairs, "the acts of the Vigilance Committee whether right or wrong on moral grounds can never be legitimatized except by successful revolution; and by a constitutional necessity such revolution can be effected only by the overthrow of the state government, and a victory achieved on land over the power of the whole nation. That power has already been invoked. That a *casus fœderis* is presented by the papers that have gone forward, there can be no reasonable doubt, and what the action of the general government will be in view of its own precedents, can hardly be a matter of serious question. There are in fact but two courses; one is revolution terminating in a Pacific empire or in subjugation and its incidents. The other is for the Vigilance Committee to stop exactly where they now are and bide the consequences of all

that is passed, trusting to the general judgment for immunity from that legal responsibility which they think they have the right to claim. The consequences adverted to are less formidable to-day than they will be to-morrow, and to-morrow they will be less portentous than the day after. So far chastisement has been visited on those only who were guilty of crime known as such to the law of the land, and therefore every sentence that has been pronounced has been ratified by the verdict of the people."

This specious line of argument may be answered in a word. The Vigilance Committee did not seek to legitimatize their proceedings, did not care whether the fruit of their action was called lawful or bastard. Born of necessity, though out of the legal forms of wedlock, the purpose was as pure as was the virgin's conception, and the offspring of their acts as holy as was her child. As to the impossibility of any other solution of the dilemma than one of the two mentioned, I have only to point to the sequel. A straightforward honorable path, leading to the grandest and most satisfactory results, was found and unwaveringly pursued by the executive committee, and it was neither of the inevitable paths prescribed by the law and order faction.

Says the Nevada *Journal* of the 27th of June on the situation:

"Upon the requisition of the governor of a state the president is bound to bring the force of the nation to suppress a revolt against the legal state authorities. Living as we do far removed from the power of the Union, it cannot be directed against us till the people have quite thoroughly purged themselves of the unwholesome causes of the complaint, and restored health for the present and some time in the future.

"By proclamation a state of civil war actually exists. The people are opposed by authorities they have once delegated with power for a certain length of time which has not yet expired. But the governor and his adherents can claim nothing but the shadow of force. The constitution may be appealed to, but it furnishes them with neither men, arms, nor money. The records of the last gubernatorial canvass may be shown, the commission of the executive, his inaugural, and the recorded history of his many vetoes, proofs conclusive of the highest authority, but they avail nothing against the sovereign will of the people at this moment. The delegated voice of the

state, so far as San Francisco is concerned, has been revoked for a time. A large proportion of the available arms in the country, except those belonging to the general government, are in the hands of the people. In point of numbers and munitions of war, the governor is powerless compared with the Vigilance Committee and their supporters. He cannot do much damage if he would.

"Under such circumstances, knowing that the sole design of the people of San Francisco is to obtain their rights as citizens and secure them for the future, without a desire to subvert the civil authority of the state, only so far as necessary for immediate self-protection, it is not difficult to see what the result of the affair at San Francisco will finally be. The president can move no number of men or arms sufficient to put down the people of this state in a shorter period than three months, and long ere that time will have expired peace and quietness will once more reign among us. The rascals who have so long contaminated the fountain of justice will have been extirpated, and nothing will be left deserving the sword and bayonet when the United States troops arrive, should they arrive at all, which is extremely problematical.

"With the restoration of civil authority a new era in the history of our state, young in years but old in vice, may be reckoned to commence. That standard of virtue known in older communities we hope will be emulated hereafter among our people. The ruffianism which has characterized the state, giving it the reputation of being the hell of the world, will we trust be known no longer. Give California but a fair and spotless name to which the best efforts of San Franciscans are fearlessly devoted, and with her mild climate, unbounded and undeveloped wealth, and her ample fields for the display of energy and enterprise, immigrants will pour in upon the coast, making the western arm of the republic powerful and its people prosperous and happy. We trust that the effect of the Vigilance Committee will end in so great and desirable a blessing."

How much better, how much wiser it would have been for lawyers and officials, so far as their duties of office would permit them, and the incendiary, denunciatory gubernatorial and military law and order element, to have heartily seconded the people in their effort to crush the viper villainy! Then the work would have been short, the result decisive, and both the political and business parties would have soon settled back into their former routine. Sheriffs and police officers might have hunted criminals side by side with the people, and on catching them, if the latter wished to do the dirty work of hanging, and their numbers were such as to overpower the officials, so that they were not made responsible for the conse-

quences, of what had they to complain? Neither governor nor judges need have formally sanctioned the illegal acts of the Vigilance Committee, but as long as they perceived that this was an organization of pure elements, sustained by a large majority of the people, and doing in a most cool and orderly way a most necessary work, would it not have been wise in them to have reined in their hot tempers, smothered their personal pride, and let the people alone for a time. True, it would not have been easy for men so constituted, so educated, so filled with the chivalrous idea, to do. But it would have been patriotic, it would have partaken of the highest, holiest patriotism; for true patriotism consists not in the advancement of self, but of the elevation and ennobling of one's country.

The denunciatory policy adopted by law and order writers and orators when logical argumentation failed them was most damaging to their cause. Vituperation never makes converts. Invective is the last resort of weak dialectics. Compare the famous incendiary Sacramento speech of General Howard and the following not unfair specimen of the *Herald's* editorials with the calm, dignified, and logical address of the executive committee to the people, of the 9th of June. If the weakness of argument be in accordance with the intensity of abuse, then the lawless law men were truly in a bad way:

"What the old prophets and perfectionists desired long but died without the sight," writes Mr Nugent the 7th of July, "it was to be the reward and precious boon of these latter-day saints of the Vigilance Committee and its affiliates to behold. We were assured, as were the South Carolinians of 1832, that the means to effect all this were simple, cheap, easy, and expeditious; that no harm could come of it; that it was a movement of the people, for the benefit of the people, sanctioned and applauded by the people; that those assuming this absolute power and despotic dominion over the laws, and over the lives, property, and liberty of the citizens, without—so tender was their regard for the people—even putting the dear people to the trouble of meeting, or acting or expressing in any intelligible or authentic shape their wishes; that these directors and autocrats were good men and pure, and noble and incorruptible; indeed all the laudatory adjectives of the language were exhausted in their praise. True, no one knew even their names, except by vague guess and surmise; true, no one knew anything of their antecedents; true, no one

had or could have any assurance from anything they had ever done, that men, unknown even in their own city, suddenly were inspired with all statesman-like and patriotic qualities. What of that? Were they not 'our best, purest, most respectable, and wealthiest citizens'? But in what they had ever shown a peculiar purity, or how it follows that wealth in California is irrefragable proof of virtue and respectability, we were not informed. With an amiable credulity, we took all that in trust. It was true that in this great reform movement members were enlisted whose very names were synonymous with everything that was odious and disgusting in fraud and crime. Bankers, whose spoil had been the hard-earned bread of the mechanic and the miner, the washerwoman and the daily laborer; who had held out fraudulent assurances to the widow and the orphan, to the aged and infirm, and to the sick and disabled, to deposit the scanty provision which might support poverty in its night of want, or protect age in its feebleness and decrepitude. Merchants, whose raging lust for gold, as hot as Pizarro's and his crew, hazarded the lives of their fellow-citizens through the slow process of famine, by illegally forestalling the market and raising the price of the necessaries of life to unheard of rates; and even then, if the tale may be believed, selling deteriorated and adulterated articles for sound and wholesome provisions! And of that long series of mercantile crimes, of fraudulent invoices, of smuggling, of false accounts and settlements of consignees, of fraudulent bankruptcies, of all the long list of *crimen falsi*, forgeries and breaches of trust included; of the long, black catalogue which has made San Francisco, more than its crimes of violence, a scoffing and a byword, not only throughout the state, but throughout the world—how many representatives were not found in connection or sympathizing with this Vigilance Committee? And yet this *par excellence* mercantile diet can find no time and no subjects for the punishment and exposure of mercantile crimes! Ah, no, not they! Cheating, swindling, fraud, perjury, forgery, embezzlement, smuggling, beggary of thousands of poor mechanics and laborers and widows are nothing; provided always that they are done in a commercial way and not in a political way; but the man who shoots or stabs or stuffs a ballot-box must exclusively be the victim of punishment by these merchant princes."

Ay, there was the rub! It was most humiliating, most galling to lofty-minded men of learning and chivalry, to fire-eating men of law and bowie-knives, whose patriotism was merchandise, to see these men of merchandise display that true self-sacrificing patriotism which in themselves existed only in name. What was Johnson's patriotism? Pride of position; petty tyranny; wounded self-love. What was McGowan's patriotism? Self-glorification; pompous display; blood-and-thunder greatness. What was Casey's patriotism? Partisan jealousy; malignant passion; blood-thirsty revenge. What was Nugent's patriotism? Sectional

superciliousness; vindictive regrets in having embarked in a wrong course which would be more ruinous now to leave than to continue. Descending to lesser official minions, lawyers, judges, sheriffs, political scene-shifters and wire-pullers, and the myriads of legal leeches that prey upon the people, we find patriotism a byword, a byword loudly mouthed, while their hearts are hollow and their voices brassy. With them patriotism is political pap; a house to live in; bread and whiskey money. Compare such patriotism, in all candor compare it with the patriotism of Coleman, of Dempster, of Truett, and all the others of that volunteer army of eight thousand and more devoted men, who staked their lives and fortunes for the vindication of social morality and good citizenship. Was it glory they sought? No. They acted unseen, unknown; their deeds were untrumpeted; their identity they sunk in their cause; their names even were converted into numerals. Was it the lust of power that called them into action? No. For they were already the sovereign power, and had they longed for office there were the regular and easier channels open to them. Was it position, occupation, money? No. Already they held positions esteemed by them as much higher than those of legislator and governor, as these latter esteemed theirs above those of merchant and mechanic. And as for occupation and money, they neglected better occupations than the state could offer them, and their own money they poured out like water, simply for the sake of serving; and with their gold they were ready to pour out their lives. I find that nothing but pure patriotism actuated them; but seek not such as this in elections, in legislative halls, in the jumping-jack gyrations of political mountebanks, or in the bladder-blown principles of party or polity. Patriotism lies in the hearts of the people, not upon the slippery tongues of politicians.

CHAPTER XXI.

ARREST OF TERRY, JUDGE OF THE SUPREME COURT.

> Lo! with crooked judgments runs th'avenger stern
> Of oaths forsworn, and eke the murmuring voice
> Of Justice rudely dragged, where base men lead
> Thro' greed of gain, and olden rights misjudge
> With verdict perverse. She with mist enwrapt
> Follows, lamenting homes and haunts of men,
> To deal out ills to such as drive her forth,
> By custom of wrong judgment, from her seats.
>
> *Hesiod.*

We enter now upon scenes yet more startling, where the Executive assume doubtful powers, and where the people in organized bands display a skill and a courage which overshadow even the achievement at the Broadway jail on the quiet Sunday preceding King's death. "On the 21st," says Mr Coleman, "we had precipitated upon us the most unexpected and the severest task which fell to our lot during the year."

It was a circumstance deeply to be regretted, regarded indeed by the Committee as a calamity, that a judge of the supreme bench should leave his duties and his seat at Sacramento, come to San Francisco, and go about the streets openly and violently denouncing the Committee and its sympathizers, using all his influence among his hot-headed friends to precipitate a collision between peace-loving citizens.

The fact is there were certain of these bloody-minded individuals who were determined the Committee should not retire without a fight. Their anger was flaming for a fray. "The secret of the greater part of the opposition to the Vigilance Committee," says Mr Dempster, "was the bitter feeling on the part

of the pro-slavery party, which had long controlled the state, and which, unable to manipulate the Vigilance Committee, looked with dread to its peaceable disbandment, as in that case its leaders would remain the future leaders of the people."

It was to make of the Pacific States a slave empire that the chiefs of that party had proposed dismemberment from the federal union, even while begging the aid of the federal authority against the only true federal supporters. Others sought to commit the vigilance party to a revolutionary policy, to that end writing articles for the public press which professed to embody the views of the Committee in regard to a change in state government. The law party, now well organized, strong in its compactness, and murderously determined, could not endure the thought of disbandment until the Committee had perpetrated some act destructive of its influence. The influence which would flow from a series of attempts so remarkably free from failure was to be dreaded.

As we have seen, rumors were rife inimical both to the Committee's peaceful continuance and peaceful retirement. The law party were hedging them round at home, and invoking federal thunderbolts from the other side of the continent. There was but one thing for the Committee to do, which was to intercept the arms said to be the state's quota, obtained surreptitiously and shipped from Benicia by Governor Johnson to General Howard at San Francisco. The enemy must be met on his own ground; and this they immediately set about doing.

"I have correct information," writes James Hutton of the schooner *Bianca* to the Executive on Friday the 20th of June, "where the muskets are that the law and order party have stolen, and will volunteer to go in my schooner and try to bring the same to the Committee of Vigilance rooms." Captain Hutton was permitted to go with the Executive's benediction; and the director of police was ordered to detach men

sufficient to seize the arms and bring them to head-quarters. They were found on board a schooner loaded with bricks, which was nearing the wharf. Captain Hutton ran alongside of her; the vigilants jumped on board, and without saying a word turned up a few layers of bricks and came upon twelve cases of rifles and six cases of ammunition, which were taken without ceremony.

The thanks of the Executive were tendered Captain Hutton with permission to embark in other adventures, but in those he was anticipated by others of the Committee eager for honors. The next day after Captain Hutton's success a detachment of twenty-two vigilants was sent by the Committee to intercept certain arms and munitions of war on their way to the city from Corte Madera, said to have been sent from Sacramento to the state-prison, there to be cleaned and put in order for the law party. The vigilants embarked in the sloop *Malvina* and proceeded to Corte Madera, where they overhauled the schooner *Mariposa*. Running the sloop alongside, the vigilants, whose cocked pistols kept the crew quiet, leaped on board, and on lifting the hatches found eleven cases of muskets and three boxes of pistols. Sam Bantam and the Benicia Boy, two notorious characters, were on board, but in view of the circumstances they had little to say. In less than ten minutes from the time the *Malvina* grappled the *Mariposa*, the weapons were transferred from the schooner to the sloop, the *Mariposa* was cast loose, and the *Malvina* was on her way to San Francisco. About five o'clock the party landed at Clay street, where they were met by a large body of vigilant infantry who escorted them and their capture in triumph to the Committee rooms.

The information of this shipment of arms was conveyed to the Committee in the following letter:

"VALLEJO, June 20, 1856.

"*Gentlemen of the Vigilance Committee:*—

"I have just received some information which I deem it my duty to communicate to you by the Napa boat, which will be along in a few minutes.

A boat or ship's launch arrived here last night or early this morning, with arms on board, supposed to have been taken from Benicia, either procured from the friends of the law and order party, or stolen from the United States arsenal there; as they express a fear that Gen. Wool will get wind of it the latter is quite probable. They have also some state-prison convicts on board, and state their intention of going to Corte Madera to get the arms cleaned by the convicts, and it is inferred they will take the arms from there to the law and order party in San Francisco. One of the party is a notorious fellow, known as the fighting boy of Benicia; a large, tall man by the name of Heenan.

"The information was obtained from them when they came ashore to get their breakfast this morning at the Washington Hotel, the proprietor of which is in league with the law and order party. They were somewhat communicative, not knowing that any but their friends were present. Two men employed at the hotel gave the information, and although it is somewhat vague, yet there is every reason to believe that there is something wrong going on. Mr Richardson, the stage-driver, has just gone or is about to go to Benicia to inform Gen. Wool of the facts. As the tide will not turn for three hours they cannot leave for that time. If a steamer could be had on the arrival of this, they might be overhauled in the bay before reaching the state-prison. The vessel is a sloop, her name I have not learned, and there is not time to gain more particulars before the boat leaves.

"Yours, respectfully, C. E. WETMORE, *Merchant.*

"P. S.—I refer to J. H. Coghill & Co. I gave the information in regard to Cusick."

Again on this same eventful Friday information came to Marshal Doane that certain arms, the property of the state of California, directed to J. Neely Johnson, Sacramento, were known to be on board the schooner *Julia*, then on her way from the Sacramento River to San Francisco. The grand marshal gave immediate notice to the Executive, who authorized him to take such steps for their capture as he should deem expedient. This adventure was pregnant with momentous results.

Calling to him the chief of the water police, the grand marshal said:

"Have you a small vessel ready for immediate service?"

"Yes; a sloop at the foot of this street."

"Be ready to sail in half an hour."

The marshal then summoned John L. Durkee, and gave instructions.

"Detail twelve men for special duty." Within ten

minutes Durkee announced himself ready. "At the foot of this street," said Doane, "you will find a small sloop manned and awaiting your order. Take it and diligently cruise the bay toward its northern end for a vessel supposed to have arms on board intended for the enemy; when found, board her, and bring to these rooms such munitions of war as you may find."

When James King of William was shot, John L. Durkee was a member of the city police. About two weeks after, he resigned his position and joined the vigilant police. The 16th of August he was appointed deputy director of police at a salary of twenty-five dollars a week. Mr Durkee was one of the most faithful and efficient officers on the roll of the Committee. He was extremely quick at comprehension, and steady of execution. In a remarkable degree he possessed the faculty of success; whatever he undertook, if it was within the bound of the possibilities, he accomplished. Some time after the disbandment of the Committee he was made fire marshal of the city of San Francisco; and under his thorough and skillful management the service has been brought to a proficiency second to none in America. The great responsibility resting on him, and the high character he has ever sustained, he is wholly worthy of. Of his promptness in answering the call of duty, of his coolness and efficiency in times of danger, no less than of his high integrity and modesty of demeanor, I can bear grateful testimony; but for his skill and courage in extinguishing a dangerous fire which threatened my Library I should not now be writing his history.

It was thought by some that the plan of sending into the bay vessels having a few muskets on board, and then accidentally, as it were, conveying notice of the fact to the vigilants, originated with the men of law, with the object of entrapping the Committee into a seizure which would subject them to a charge of piracy under existing United States law, thereby forcing the issue which they so much longed for be-

tween the Committee and the general government. But of this there was no proof; and if such was the case it did not frighten the Committee from the risk.

Durkee immediately set sail, taking with him Charles E. Rand as his lieutenant. It was now drawing toward dusk, Friday evening. Cruising northward Durkee came to anchor in San Pablo Bay, wind and tide being against him. Presently he again set sail and overhauled several vessels, but found nothing answering the description of the one they sought. The search was kept up until nearly midnight. In the darkness it was with difficulty the vigilants could make their way around the shores and islands.

Finally through the black mist Durkee discovered an object close under Pueblo Point. It was a schooner lying at anchor; there was no light on board, and she might be deserted for any visible signs of life about her. Creeping noiselessly up, Durkee and his companions made fast to the dismal craft and silently boarded her. Captain and crew were all asleep. Their late potations had been more than usually liberal. Before they were aware of it half the vigilants were in the companion-way transferring the guns and sabres over to their vessel, while the other half with cocked pistols kept guard over those on board. The schooner's name was the *Julia*. The arms and vessel were in charge of J. R. Maloney, commonly called Rube Maloney, who had chartered the craft for fifty dollars to carry the arms down. With him were John G. Philips and James McNabb. Not the slightest resistance was made to this action of the vigilants, and the arms, consisting of six cases containing one hundred and fifty muskets, together with the three men as prisoners, were taken without delay to the city.

Arrived in the morning at California-street wharf, Durkee despatched a messenger to the grand marshal, reporting his success and asking what disposition

should be made of the prisoners. Maloney and Philips were notorious scoundrels. It was clear that the law party would claim that they had been sent by order of the governor to superintend the removal of the muskets from Benicia to San Francisco. After consulting with the Executive, Doane sent word to Durkee to let the men go. Though they were bad enough, there was no charge against them, and as they had relinquished the arms without opposition, the Committee had concluded to turn them loose.

Maloney and Philips at once reported to their party what had befallen them. Then they went from one drinking-saloon to another, reviling the Committe, and swearing they would shoot on sight various persons, with other blatant threats such as delighted the men of law and order, now literally panting for blood. Of these proceedings the Executive had due notice. It was evident that these mighty men needed a lesson; so at the one o'clock meeting on Saturday Mr Smiley moved that John G. Philips and James Rube Maloney be arrested immediately, which was ordered done.

Selected for this mission was a member of the fraternity named Sterling A. Hopkins, a native of Maine, but reared in Boston. He was an artesian well-borer, about thirty-three years of age, a man of great pertinacity, good at obeying orders, and afraid or ashamed of nothing. Since its organization he had been an efficient member of the Committee, and had been sent on many missions of danger and importance. He had little delicacy as to the nature of his work; he would as cheerfully play the spy or hang a criminal as eat his supper. All he required was a master strong enough to uphold him.

It was a small matter, the arrest of these persons, although they were desperate characters; so Hopkins thought, as he called to his assistance but three or four men and started off in search of Maloney. Palmer, Cook, and Company's bank, corner of Washington and

Kearny streets, was then one of the chief rendezvous of political leaders. Thither Hopkins and his comrades proceeded, and soon learned that the person they sought was in the second story of the building, in the office of the naval agent, Richard P. Ashe, a Texan and an active manager in the chivalry party, who was now surrounded by boon companions.

Stationing his men outside the bank, Hopkins stepped upstairs and entered the apartment of the naval agent and approached Maloney for the purpose of arresting him, when Maloney and all present, among whom were Judge Terry, Dr Ashe, and Mr Bowie, drew and cocked their pistols, and pointed them at him. Hopkins was unarmed. He did not enter the room for the purpose of shooting any one; neither did he desire to be shot. Accordingly he withdrew, descended the stairs, and instructing his men to keep a strict guard on the building, he hastened for assistance.

It happened that Dr Beverly Cole was just then riding by. Hopkins borrowed from him his horse, and giving it the whip galloped down to the Committee rooms and reported the situation. The chief of vigilant police ordered him to return immediately, keep strict watch, and he would send him reënforcements. Hastening back Hopkins found his foxes unkennelled. As he rode up, Maloney, Terry, Ashe, McNabb, Bowie, and Mr Rowe, all armed with double-barrelled shot-guns, were just turning the corner of the bank building from Washington street into Kearny. Hopkins threw himself from the horse and called on his men to follow. There were but four beside himself, James Bovee, D. W. Barry, H. A. Russell, and Joseph Capprice.

Up Kearny street went the game and into Jackson street, the hunters hard at their heels, Maloney, whom alone the vigilants were after, having the lead with his friends between him and his pursuers. Double-barrelled shot-guns loaded with slugs are not wholly safe

in the hands of passionate men; and it was not pleasant to the vigilants whenever they approached too near, that the men of law and order should wheel and bring the muzzles of their guns on a level with the eyes of their pursuers. Yet thus they proceeded up Jackson street nearly to Dupont street. Hopkins then attempted to rush past Terry and Ashe, who were in the rear, for the purpose of seizing Maloney. Terry presented his gun and prevented Hopkins from passing. Hopkins grasped the gun; those in front of Terry turned to his assistance and pressed Hopkins to the ground.

At this juncture Ashe levelled his gun at Bovee's breast ready cocked with finger on trigger. But he hesitated. It was becoming dangerous to shoot men in the streets of San Francisco.

"Are you a friend?" at length he cried.

"Yes," said Bovee, therein, I fear, telling a lie.

He might have been a spiritual friend, but corporeally his action ill accorded with his word, for immediately the answer was given he struck Ashe's gun aside, and presented a revolver at his head.

"Don't shoot!" cried Ashe.

"Drop your gun, then, if you please!" replied Bovee.

Still facing the enemy, Ashe slowly retired toward the armory of the Blues, a law and order encampment corner of Jackson and Dupont streets, whither it appears the party were tending, and where drilling was vigorously going on preparatory to annihilating the Vigilance Committee.

Meanwhile Rowe, who had been helping Terry and Ashe against Hopkins and Bovee, raised his gun upon Barry, who just then rushed up. Barry seized the muzzle in his left hand and with his right placed his revolver at the head of Rowe, who thereupon dropped his gun and made for the armory. The accidental discharge of a pistol, but directed as Terry thought against himself, brought matters to a crisis. For on

the instant, quick as a flash, Terry drew from its sheath a large bowie-knife and plunged it into the left side of Hopkins' neck, to the depth of about six inches. Hopkins staggered back and cried: "I am stabbed! Take them, vigilants!" Terry, Maloney, and those of the party remaining fled and took refuge in the armory. Close behind them were Boyce and Barry, but the fugitives managed to gain admission, when the iron doors were slammed shut, and barred. The two vigilants then took their station at the entrance to prevent egress or ingress and thus waited the arrival of assistance.

Presently a pompous, portly man made his appearance at the armory door and demanded admittance. He was ordered to stand back.

"Do you know who I am?" asked the pompous, portly man.

"I don't care a damn who you are," was the plain though somewhat profane reply.

"I am Major-general Volney E. Howard," whispered the commander of the law and order forces. "Do you want to see this city laid in ashes?"

"You cannot enter here."

The pompous, portly man stood aside, and another applicant for admission appeared in hot haste at the door.

"I am a lieutenant in Calhoun Benham's company, and was sent here to —"

"I am a member of the Vigilance Committee and you cannot enter," said Barry.

"What! Have the Vigilance Committee possession of this building?"

"Yes."

"The lieutenant turned, rolled his eyes over his left shoulder, and glided round the corner.

"This came quickly to our ears," says Coleman, "and sounded like the explosion of a magazine. I saw instantly the magnitude of the new labor and the new responsibility. It was not only to vindicate

the common law of punishment for crime, but we had a law specially provided for the protection of our people, that any violence done them should receive exemplary punishment. And to feel that the presiding judge of the supreme court of the state had voluntarily left his home at the capital and had placed himself in this most unfortunate position was an utterly unsatisfactory and undesirable denouement."

The vigilance alarm now sounded, two or three quick taps, rest and repeat; and orders were at once issued for Terry's arrest. Immediately the streets were alive with men, many of them with their arms full of muskets and sabres, hurrying to head-quarters. Those who could quickly find their companies took their places; those who could not were ordered to fall in anywhere. Soon scores of vigilant squads were on the streets marching or running toward the armory of the Blues. Conspicuous among the vigilants was the agreed signal of the white badge in the button-hole of the left lapel of the coat.

Merchants left their customers, clerks dropped their pens, and mechanics their tools. Draymen sprang from their seats, stripped their horses of the harness, all save the bridle, and mounting rode briskly away to the scene of action, leaving their loaded trucks standing in the street.

Mr Dempster was in his store at the time, and when one of his clerks rushed into his office with the news, upon the instant he jumped into his buggy which was standing at the door, and although head-quarters were less than four blocks distant, and although he whipped his horse into a run, so dense was the crowd before he reached the building that he was unable to get within a block of it; and springing to the ground he left horse and vehicle unattended and untied in the middle of the street and forced his way on foot as best he could through the dense throng eagerly hastening thither; nor did he see his horse again until next day, when he found it had

been safely stabled by some one unknown to him. On entering the building he found the men hastily, but in silence and without the least confusion, falling into line.

"All right!" exclaimed Dempster, encouragingly. "Keep cool; take your time about it."

"Ah, Mr Dempster," was the reply; "we have been long and anxiously waiting to make the clean sweep!"

As one of the war committee Mr Dempster then hastened to the corner of Jackson and Dupont streets.

Colonel Olney was lame at the time. During a certain arrest a day or two previous, while the police were conveying the prisoner to the committee rooms, there was a great rush of people, which it was deemed advisable should not crowd so closely on head-quarters as to hamper the movements of the men. Olney was ordered to throw a line of vigilants across Sacramento street, just above the corner of Front street, to stop the rush. He did so; but the multitude overran the whole of them. The colonel was knocked down and his ankle sprained.

He was at his boarding-house on Stockton street when the alarm sounded next day, and one of his men appeared before him almost breathless, saying that Terry had killed Hopkins. Olney's foot was so swollen that he could not get his boot on; but seizing one belonging to a large-footed boarder, he hobbled down stairs and out into the street, where he found himself in a crowd of excited people.

Then what should he do? He could hardly walk at all; head-quarters were at least half a mile away, and the thought that his absence might mar that day's doings was unpleasant to entertain. There was not a moment to lose; to get a horse in that neighborhood was impossible, and he could not walk. What was to be done?

While thus speculating, every second seemingly an hour, his eyes fell on the wagon of a kerosene dealer who

had driven up and stepped to the sidewalk just as the alarm sounded. In a moment Olney was in the driver's seat, and with reins and whip in hand was lashing the horse like a fury, toward the Committee rooms. The driver had barely time to scramble up beside him as the horse sprang forward, scattering the affrighted people to either side. One glance into the sternly set features of Olney's face satisfied the driver that expostulation would be in vain. Away they rattled down the street; the colonel whipped and the kerosene flew. The empty cans danced out of the vehicle, and the full ones overturned and scattered their contents upon the cobble-stones. Presently the dealer mustered courage and said:

"You are spilling all my kerosene."

"Damn your kerosene," was the reply. Then remembering that this poor pedler should not be made to suffer for the daring deeds of chivalry, the colonel added, "I will pay you for your kerosene."

Arrived at head-quarters the colonel called for his horse, a magnificent white steed, and was lifted to its back. The horse alone was worth a hundred men that day. No sooner was he mounted than round him rallied the Citizens' Guard, the pride of the committee, and within twenty minutes they were off for the armory of the Blues.

The marshal with a large force promptly occupied all the streets in the vicinity of the armory. The rendezvous of the state forces was surrounded almost instantly after the striking of the vigilance alarm, so that the escape of the inmates was impossible. Two pieces of artillery were planted before the building, ready loaded and with match lighted. A committee consisting of Dempster, Smiley, Truett, Tillinghast, Rogers, and Ward was appointed to proceed to the seat of action and advise with the marshal in the field.

Excitement round the armory now roared explosively; the people were wild. The chivalry declared vehemently that they would die where they were

rather than yield, and in the ranks of the organized vigilants anxiety was depicted on every face. For a moment the sky presaged a time of terror. But though at first the state forces so stoutly swore resistance, they soon saw how extremely futile any efforts of theirs would be. They saw failure, ay, they saw their cause doomed, the wiser of them, in the hurrying horsemen with drawn sabres, hurrying not confusedly but as under the all-seeing eye, and in the squads of infantry with glittering bayonets marching hither and thither, marching not without purpose, but as under the all-directing mind.

Within the walls of their armory, now their prison, ebullient passion had settled into dark, malignant hate. They talked together now in quiet tones, though deeply muttered curses were not unmingled with their sober converse; they talked as men with whom every uttered word had its meaning. From their windows they saw the surging mass below, and as by common consent bravado was laid aside. They now felt the few moments left them within those walls was the little point of time upon which hung their destinies. Terry did not know but that the man he struck was dead; and the furtive glances cast from the window at the angry multitude below left in his mind loose and unsubstantial the slender thread that held his life to earth.

"This is very unfortunate, very unfortunate," said Terry, now beginning to realize the insensate folly of his proceedings, "but you shall not peril your lives for me. It is I they want, I will surrender to them."

"There is nothing else to do," replied Ashe, "but first of all we must try to escape the fury of this mad crowd."

Ashe was captain of company A, and commander of the armory. A loud ringing rap at the iron door now brought him to the window of the second story.

"I demand instant surrender of these premises," exclaimed Grand Marshal Doane.

"I will open the doors on condition our safety be guaranteed us," replied Ashe.

"There is no condition about it," returned Doane, "open the doors or I will blow up the building."

"Judge Terry is here and will make no effort to escape. If any of the executive committee are here I will send them a written proposal."

The war committee then stepped forward, ready to hear what the commander of the state forces had to say. Mr Ashe retired from the window, but returned presently, and passed out a note which read as follows:

"SAN FRANCISCO, June 21st, 1856.

"*Gentlemen of the Vigilance Committee:*—

"If the executive committee will give us protection from violence we will agree to surrender.

"R. P. ASHE, Captain Company A.
"J. MARTIN REESE, 1st Lieut. Co. B."

The war committee then entered a German bakery situated next door to the armory, to write a reply. The proprietor was absent, but his wife, a hearty intelligent woman with a lager-looking baby in her arms, granted the intruders the permission which they asked, to use her counter as a writing-table.

"You need not be afraid," said Mr Dempster to her assuringly.

"Indeed, sir," she exclaimed, with a smile of confidence, "I am not afraid of the Vigilance Committee."

"But we may be obliged to fire upon the building," continued Mr Dempster.

"You may fire and welcome," returned the woman, "only let me get the children out." There was really more danger than the woman supposed; but if all apprehensions of danger should pass unknown, as indeed much belonging to real danger does, nine tenths of the world's misery would be obliterated.

The reply of the war committee then passed into the armory read as follows:

"CORNER OF DUPONT AND JACKSON STREETS,
SAN FRANCISCO, June 21st, 1856.

"*R. P. Ashe and J. Martin Reese, commanding:*—

"GENTLEMEN: We have to say in reply to your communication of this date that if Judge Terry, S. R. Maloney, and John B. Philips, together with the

arms and ammunition in your possession, be surrendered to the charge of our body, we will give you and the building in which you now are protection from violence. Yours,

"By order of the executive committee of which we are members.

"No. 12, No. 13, No. 50, No. 645, No. 332.

"An answer required in fifteen minutes, it being now ten minutes to four."

To which answer was made:

"San Francisco, June 21st.

"*Gentlemen of the Vigilance Committee:*—

"If you will agree to see that Judge Terry and Mr Maloney will be also protected, while in your hands, from violence from persons outside of your organization, then we will agree to surrender on the terms of your note just received. Respectfully,

"R. P. Ashe, Capt. Co. A.

"J. Martin Reese, Lieut. Co. B.

"P. S.—Lieut. Philips is not with us."

This was answered as follows:

"June 21st, 1856.

"*R. P. Ashe and J. Martin Reese, commanding:*—

"We agree to protect Judge Terry and S. R. Maloney from violence from parties outside of our organization, as proposed, and beg leave to remind you that the time proposed in our first note has already expired.

"By order of the executive committee, of which we are members.

"Nos. 12, 13, 50, 332, 645."

Immediately upon receipt of this last communication the doors of the armory were thrown open by those within, and a company of vigilants marched in. All present were disarmed. Terry and Maloney were taken charge of and the armory was quickly swept of its contents. Three hundred muskets and other munitions of war were carried out and placed on drays. Two carriages then drove up, in one of which was placed Maloney and in the other Terry. Both were attended by a strong escort, Olney forming round them with his Citizens' Guard, increased to a battalion. Then in triumph the Committee men, with their prisoners and plunder enclosed in a solid body of infantry and these again surrounded by cavalry, marched back to their rooms. The route taken was along Dupont street to Washington, down Washington and through Kearny, Clay, and Montgomery

streets, to and down Sacramento street. The procession was attended by a larger crowd even than that which honored Casey and Cora with their presence. Arrived at head-quarters, Terry and Maloney were conducted to separate cells.

The prison portion of the vigilant premises, situated in the most easterly of the three buildings, was fifty varas, or one hundred and thirty-seven and a half feet in depth. There were at times fifteen cells partitioned from the main hall, constructed of boards and closed from floor to ceiling, though but nine are represented in the cut previously given. All the permanent cells were on the west side of the room. There was never more than one prisoner confined in each apartment, and at the door of every occupied cell stood constantly a man on guard. Terry's cell, the largest in the building, had two windows and was situated at the south-west corner of the room. It was not by any means secure, but the distinguished prisoner was most carefully guarded. All or nearly all the other cells were dark.

CHAPTER XXII.

CAPTURE OF THE ENTIRE CHIVALRY FORCES.

The world, the flesh, and the devil.
Prayer Book.

Come we now to the crisis of the crusade. It was the moment when tidings of Terry's arrest reached the executive chamber. The three o'clock meeting of Saturday afternoon had been called to order by Mr Thompson, one of the vice-presidents, but when Hopkins was stabbed John P. Manrow occupied the chair. It was now about half-past four. Little George Ward, the Hotspur of the association, being always on his feet, and hence not having to rise in addressing the meeting, offered the following resolution, which was adopted: "That the grand marshal be ordered to take possession of all arms and munitions of war that may be found in the hands of our opponents, or that may be likely to fall into their hands."

Nothing could have been more opportune than this step at this juncture. That it was unpremeditated there can be no question, for the Terry affair was not only wholly unexpected, but was deeply regretted by the Committee, as well as by himself and his friends. A general fight would have entailed less danger to the law and order men than the falling of any of their number into the hands of the enemy. This motion of the little Hotspur displayed well-convoluted brains. Besides possessing pluck and quickness, Hotspur's head was tolerably clear.

At all events, this motion and what followed from it broke the backbone of the chivalry. The vigilants

were all eager for it. They were tired of the jeers and insulting braggadocio of their opponents; they longed for some determinate action.

About the same time, which was shortly after four o'clock, Curtis writes from Jackson street to the executive committee: "We have caged Terry, Ashe, Maloney, and a man who presented a loaded weapon at one of our police. Shall those who made resistance be brought to garrison? I have orders now only for Terry and Maloney." Curtis was directed to arrest those whom he had named. At the same time it was made a rule "in case of armed resistance to police while in the act of arresting any criminal, that said police have the power to arrest all such persons."

There were other companies drilling at this time besides those commanded by Ashe and West, who held themselves under state orders. Calhoun Benham had a company; likewise John C. Hays, Riggs, Ryan, Monroe, and Regan all had companies which drilled nightly.

While a portion of the vigilant forces stood guard over Maloney and his judicial protector at the Blues' armory, a *coup d'état* was executed by the others, which, for an army of such miscellaneous and recently organized material, displayed consummate generalship. This was the stroke, this the blow that laid low the agents of outraged law and of disorder. Simultaneously, and almost before the men who executed the movement were aware of it, every important law and order encampment in the city was surrounded by the vigilant forces, their inmates made prisoners, and their arms and munitions of war seized and conveyed to the head-quarters of the Committee on Sacramento street. The open and violent collision with the vigilance forces was the death-blow to the opposing party; and there is no question now that in the event of Hopkins' death a justice of the supreme court will be executed by the Vigilance Committee. This presents nothing new in the popular tribunal principle,

but if it happens it adds greatly to the cares of the Committee.

And this is the way the thing was done. On receiving instructions to that effect from the Executive, the marshal instantly detailed squads to scour the city in different directions in search of arms, and of men bearing arms against the Committee. The force was divided into four parties, which started simultaneously for suspicious places. As before stated, a strong detachment had been left to guard the remaining inmates of the Blues' armory, some sixteen in number, who were still held prisoners by the vigilants, and these were now ordered to head-quarters.

The next most important rendezvous of the law and order forces was the armory on the north-east corner of Clay and Kearny streets, in the large brick building known as the Merchants' Exchange. Before this building Marshal Doane appeared with his forces.

The work was not accomplished without resistance on the part of the law and order forces. At the first alarm members of the different companies rushed to their armories, but in most instances only to find them in the hands of the vigilants. Some gained admission before the seizure of their encampment, but many were repulsed at the door, and drifted purposeless and ungeneralled about the streets.

When the column enclosing the Blues' armory capture arrived at the Kearny-street armory on their way to the Committee rooms, the vigilant forces there stationed presented arms, and the main body halted. Detachments were then drawn from it and added to the guard surrounding the Kearny-street armory. These were so stationed as to insure the surrender of this law and order stronghold. Palmer, Cook, and Company's building was likewise placed under guard. The main body then moved on to Sacramento street. To the Exchange building cannon were then brought and planted, and matches lit. A formal demand was made for the surrender of the place. Six o'clock

was the hour, and the inmates were informed that their answer must be decisive, and quickly given. Within were portions of the Jackson Guard, the Union Rifles, and the Continentals, numbering together about seventy-five men. General Howard had shortly before reviewed these troops, but he was not at present within the building. Colonel J. R. West, late United States senator from Louisiana, was now in command of the armory. He refused at first to surrender in absence of his superior officer, and asked for time. The Committee regretted they could not accommodate him in this respect; he could see the situation as well as any one; he might surrender the armory or take the consequences. Nothing was said by the officer in charge about a little note in his pocket, which read as follows:

"*To Col. West, or the officer in command of the building known as the California Exchange:—*

"SIR: You are authorized to surrender the building under your command, when there is no reasonable prospect of a reasonable defence.

"VOLNEY E. HOWARD,
"*Maj. Gen. 4th Division, Commanding in San Francisco.*"

West scanned thoughtfully his little company, then looked at the cannon and ran his practised eye along the vigilant lines which stretched far up and down the street, and over into the plaza, and was satisfied. "Captain O. B. Crary and myself," says Mr Dempster, "went into the hall. There was a great deal of excitement among the law and order men, weapons were brandished and we were threatened; only fear prevented an attack on us by some of them." After a few moments of further conference West surrendered, and marched his men to the door one by one to deliver up their arms. As each passed out his gun and accoutrements, he marched back into the armory. The armory being thus emptied of its power for evil, the guns and ammunition were placed in wagons and taken to the Committee rooms. About two hundred and fifty stand

of arms were thus secured from this armory. Marshal Doane then entered the armory with his aids, and informed the officers that they might retain their side-arms. In manner similar the armory at Madame Pique's Hall, corner of Sutter and Kearny streets, that of Calhoun Benham's company, near the corner of Montgomery and Pacific streets, and others were taken, making in all some two hundred prisoners and a thousand stand of arms, beside pistols, swords, and ammunition.

It was thorough work they made of it; a clean sweep. Fort Vigilance was crammed with arms and prisoners, and it taxed their commissary somewhat to provide for the capacious mouths. The friends of the prisoners came in scores to ascertain what the Committee were going to do with them. They were not serious offenders, nor was it the wish or intention of the Committee to hold them in durance. Their arrest and temporary confinement during the heat of action was deemed a wise precautionary measure. Some of them volunteered their parole; from some, testimony would be taken; all would probably be soon discharged. So the friends of chivalry were assured.

Until about ten o'clock at night the inmates of the other several armories were held confined in their own strongholds by vigilant guards. They were then brought out two by two, many of them handcuffed in pairs, formed into a line in front of the exchange building, and surrounded by a guard of one thousand foot, and one hundred cavalry with drawn sabres disposed round the infantry. When all was ready they were marched down to the Committee rooms and there confined during the night. "It was a sad sight, a sad sight in a free republican city," groans the *Herald's* reporter. "Men marched through the streets as prisoners of war whose only crime was fealty to the laws and constitution which they had sworn to uphold." Navy biscuits were given them to eat and the floor to sleep on. For this the *Herald* gives the "mercantile

junta" due credit and adds: "We regret they did not stretch their hospitality a little and have thrown in a small invoice of codfish."

Says Smiley, who had been scouring the town at the head of a company and came in late in the night hot and tired: "After the last gang of men was brought in we went into the Committee room, and the question came up, 'What shall we do with them?' The bloody reds and communes were for hanging and quartering them. Some proposed lashing, others suggested keeping them on bread and water for thirty days. Truett and I took a more conservative stand. I said, 'Gentlemen, we are all too hot. Let us be manly in our victory. Let us go home and take a rest and think about it.' We went down at ten o'clock on Sunday to decide what to do. The proposition was made that they run the gauntlet, and be paraded through the town. I moved that they be forthwith discharged, with the admonition that if found in arms again against the Committee they would suffer the severest penalties. This motion passed. I went into the room where they were all handcuffed, about hash-time, with their tin cups, taking their meal. I called to the companies and told them to bring them into line. I ordered their handcuffs taken off; and said to them that I had been requested to discharge them, and to say that if they were found in arms again against the Committee they would be subjected to the severest penalties. They marched out two abreast, and away they went. I saved them from indignities, from insult, from imprisonment, and perhaps from the cart-whip; but they gave me the blame of all they suffered; and for a year or two afterward they gave me showers of brick-bats and insulting words, and to this day bear me a grudge." Thus with the exception of two, Corporal Tice and Lieutenant Kennovan, all were permitted to depart, and were even escorted as far as Battery street by a file of vigilants.

"They looked like Falstaff's recruits," says Mr

Farwell, "the dirtiest, raggedest, most miserable looking dogs that ever were seen. We handcuffed them, two together, and marched them out and down to our head-quarters. There was a great crowd of people in the streets, and they hooted at our prisoners." And Mr Dows' dictation reads: "There were two hundred of them, I think, hangers-on, loafers, politicians, and all grades of fellows, a promiscuous and motley crowd. They were a harmless set of vagabonds." "We had a barrel of handcuffs," says Mr Watkins. And yet another: "Such a set of gallows-looking scoundrels were never collected in one crowd. Their faces alone would almost have convicted them of any crime with which they might be charged before an intelligent jury."

But where was the gallant Howard? Where all this time was the jolly giant, the genial fat man, the pompous portly general of all the chivalry forces, he who would lay the city in ashes, he who would sweep the damned pork-sellers into the bay? Where was the gentle Volney?

Immediately after the caging of the chivalry we found him at the door of the armory where he did not gain admittance. His sensitive nature was somewhat hurt at the abrupt manner of the man who denied him access to his friends; and turning from the stern door-keeper more in sorrow than in anger, he crossed over to Washington street, and turned down toward the lower side of the plaza, thinking to drop in at the other Johnsonian armory and seek consolation from Colonel West. But alas! these were evil times for great men. Volney knew he was a great man, and he took it for granted every one knew it. So he carried himself as one surcharged with greatness. It was his misfortune to be great, not his fault. He could not help it. He was born great.

See, now, as he reaches Brenham place. A score of vigilants on their way to the Blues' armory stop

and regard him intently from the north side of Washington street. Presently one cries: "There goes Terry!" and in an instant the rabble were after him. "Oh, the curse of being distinguished!" thought Howard. "Strange that blood and chivalrous bearing should be so quickly detected by base-born plebeians; all learned and courteous gentlemen look alike to them. They might take me for a worse man than Terry, but that is a bad name just now upon the street." The general's powerful brain worked rapidly, but there was no time for further thought before the crowd was upon him, insisting that he was Terry, and that he must go to the vigilance head-quarters.

It happened, at this moment, that Olney, at the head of his gallant company, was hurrying up Washington street at double quick, and approached Brenham place just in time to hear the shout, "There goes Terry!" and to see the crowd rush after him. His first thought was that the notable justice had escaped. Turning to the left and leading his battalion into Brenham place, quick as thought he threw a file of men round, and enclosed the whole body of people with Howard in their midst. The movement was executed with an ease and rapidity which would have thrilled the heart of an old soldier. There was no hesitating, bungling, nor confusion. Round that wrangling crowd they went, taking their place with military precision; and before the disputants were aware of it, they were completely fenced in.

Howard was not happy. This was a phase of greatness which he did not relish. I blush to say it, but the fact is the general was afraid, was very badly frightened. Olney says he was frightened out of his wits; but Colonel Olney forgets that all great men do not have wits. As the Citizens' Guard closed around them the rabble rushed forward and seized the general by the collar. Then Olney rode up to the centre of the group, and Howard cried out: "Olney, do you want me?"

"No, general," said Olney. "We are not after you at present." Then turning to the crowd Colonel Olney said, "That's not Terry; let him alone." Then, indeed, Howard was happy. "You never saw a man so rejoiced," said Olney.

An hour after we find the redoubtable general of all the chivalry forces standing on the corner of Clay and Front streets in a position *prodesse quam conspici*. There he stood at the vigilant outpost as near to head-quarters as he could get, while a messenger announced to the Executive that the state commander-in-chief thus stood, desirous of parley. Although the action now taken by the Committee was quite exceptional, yet in view of the facts that this man, fortunately for his enemies, did command all the state forces in California, and that it was impossible by reason of vigilant sentry to approach nearer head-quarters than he now stood, the Executive resolved, "that a committee of three be appointed to meet Volney E. Howard at his request." Consequently the president and two others met the general, and a short conference was held at the store of R. E. Brewster and Company.

Howard was a good talker, particularly good for one who had nothing to say. Talking was his forte; he could talk better than he could fight, though this he did not know. On the present occasion he had merely to say that he desired to impress upon the minds of the gentlemen members of the executive committee that they were outlaws, that they were taking upon themselves unwarrantable responsibilities, and that he would surely put them down within sixty days, as he had sent to the general government for aid, and he would have it. He stated further that David S. Terry was in the hands of the city police, that he would be taken to jail, and would be protected by his party, in which last remark the general outspoke himself. It was a fault in his otherwise matchless delivery, that he forgot entirely to pause at the

penumbra of truth, but would carry his hearers as far beyond the boundary of light and shade as they cared to go. Further than this, Howard desired to appear before the Committee in a body. The president and gentlemen of the embassy informed Major-general Volney E. Howard that they would report his words and wishes to the Committee. But lest a greater evil should come upon them the Executive immediately passed a resolution "that no communication be had with Volney E. Howard except in writing, and that the committee appointed to wait on Howard notify him of this resolution." The said committee were likewise requested to pass the general beyond the vigilant lines. Since the Sherman-Johnson misunderstanding the Committee were determined that there should be no further opportunity for prevarication on the part of the opposition, but that all communications between the respective parties should be in writing.

Now may we not indulge in a little godly boasting, in view of the behavior of officers and men that day? How orderly all were! How careful to make no arrest, or to indulge in no overt act without instructions from head-quarters! During all that wild, tumultuous time the Executive sat in their chamber and directed every movement. Invisible, omnipotent, and omniscient, their powers and intelligence bordered on that of the deity. Their forces were absolutely at their command. Had they said slay, sweep the butchering, blood-thirsty men of law from the earth, it would have been done, so great was the confidence of the men in their leaders; so all had sworn. But calm, just, and benevolent were the councils of the Executive that day. Midst all the mad excitement, never were they cooler, never were they more careful that every step should be free from mistake. They would do, if necessary die, but they would do and die for high and holy principles, for wise conduct and dis-

criminating action, and not for such deeds as the one indulged in by the learned justice of the supreme court.

And let the men be praised; those who labored hard, risked much, and could reap but comparatively little. There is a pleasure in bearing and directing power which we do not find in simple obedience. Many a general has sent other armies and his own to destruction merely for the fun of the thing. Many a multitude have rushed on destruction of their own accord merely for the fun of the thing. Such generals were cruel, and such men insane. But these shopkeepers, carpenters, and bricklayers, with wives and little ones, did not covet destruction for themselves, their families, or the city. They did not covet honor, profit, or revenge; they desired only that liberty and peace which would secure to their sons honesty, and to their daughters comely virtue. And this they were determined to have. I find in history no better or purer motives actuating men than these. If men must needs butcher men, I see no more reasonable excuse than this. And notwithstanding they were very warm on the subject, in head and heart, conscience and duty held an overwhelming restraint upon their passions, and they played the men that day, not the mob. Honor to these, the bone and sinew of San Francisco, I say; honor to those noble-hearted, hard-muscled workingmen who staked their lives that day for virtue and fair morality!

This day's deeds, by citizen soldiery scarcely six weeks organized, for order and discipline, for speed without confusion, for deep determination without passion or nervous excitement, exceed anything we find in history. It was a sight which those who witnessed never forgot. There were flashing eyes and firmly set lips, but there was no blanching. There was little talking; and for once the jokes and repartees so characteristic of Californian crowds were sunk in the solemnity of the occasion. These men could not

forget what they were arming for. The result did not trouble them; if they could not win they could die. But there was manifest with them none of that appetite for blood and battering so apparent among the fire-eating chivalry. Principle, not passion, was the sentiment that swayed every vigilant breast and nerved every vigilant arm. "Of all the field days of the whole campaign," exclaims the president with just pride; "of all that partook of brilliant military evolution and complete success, this day probably excelled."

"I should like to enlarge," says Mr Dempster, "on the very great credit deserved by the rank and file of the Vigilance Committee, for the thorough discipline and good behavior displayed by them on the day the armories were taken. I should wish to enlarge on the cheerful sacrifice of their time by laboring men and the risks they took which did not, to such an extent at least, affect the more prominent members of the Committee."

Turn now to the victim of this tragedy. As before recorded, when the blow of the lawless jurist fell on Hopkins' neck he cried, "I am stabbed; take them, vigilants!" and staggered back still holding the supreme justice's musket which he had wrenched from him. Supported by his friends, he walked into the Pennsylvania engine-house near by; physicians were summoned and the wounded man was made as comfortable as possible. As soon as the sad intelligence could be conveyed them, his wife, mother, sister, and brother came to him and lent such aid as only fond devotion can give. For several days his life hung fluttering between two worlds, the while chances of recovery were deemed against him.

Dr Cole thus speaks of the case: "I entered the building, and there I found the wounded man Hopkins, sitting on a chair bleeding profusely from the wound, and also from the mouth and nose, extremely pale and ensanguined, and immediately on my enter-

ing he fell into the arms of those surrounding him in a state of syncope from loss of blood." After describing an exceedingly dangerous operation the doctor goes on to say: "Yet it was successfully performed, the man being so far exhausted from loss of blood, however, before the commencement of the operation, that when the ligatures were about to be thrown around the vessel, he had become so weak as to induce one of the surgeons present to urge me to be as quick as possible, he having lost his pulse, and to all appearance being *in extremis*."

Hopkins was poor material, truth compels me to say, for a first-class martyr. His wife and mother were—women. The people had raised some thirty thousand dollars for King's family, and as the two near and dear ones sat and watched the night away, Dr Cole heard the mother remark to the wife, "If Stephen dies you will be a rich widow; the Vigilance Committee will look out for that." Hopkins also heard it; for turning his face toward them he exclaimed, "Don't flatter yourselves, I am not going to die; unless," he added, *sotto voce*, "it were to see Terry hang." If the mother was mercenary, the wife was not, like Cæsar's, above suspicion; and yet Hopkins was not as jealous as Othello about it. Captain Crary tells a story of him too indecent to print. All which argues in favor of the fairness of the Committee being as ready to deal with a high criminal as with a low one, and to right as promptly the wrongs of the meanest of their servants, as their own. Probably never in the annals of the state has raged such intense excitement, both in city and in country, as on this Saturday and Sunday.

A glance at the *Herald's* editorial the morning after the *coup d'état* forces us to confess that it is the hollow hypocrisy of one who scruples at no deception to maintain a false position, who would shield crime and throw a veil of sophistry over political rottenness, hiding his ostrich head under a bush

rather than look the evil which was his ruin in the face—I say the writer of this editorial appears wilfully untruthful or insane. Yet I cannot altogether denounce Mr Nugent as one abandoned of truth and honor; rather let me think that he was honestly trying to bring himself to believe what he knew to be false.

"The last extreme of ignominy which the potentates now usurping supreme dominion could put upon the officers of the laws, the representatives of all that remains to us of the constitution of our country, has been reached. The Hon. David S. Terry, of the supreme court of California, has been arrested, and is now a close prisoner in the dungeons of the bastile. The cause of his arrest has been given elsewhere in our columns. He has been guilty of no crime." Oh shame, where is thy blush! "A sworn conservator of the public peace, he was unwilling to see a violation of that peace committed in his presence by an act of forcible abduction and kidnapping of a free citizen by the myrmidons of the present dynasty, who, not content with doing acts of lawless violence in our streets, must add the needless affront of perpetrating them in the very presence of the highest officers of the law; nay, more than this, must wantonly outrage the honor of the state and the self-respect of every good citizen by a violent and deadly assault with arms upon the person of a judge of the highest court of judicature in the state."

It is worse than time wasted to show that logic so tangle-footed will not stand upon its legs; and the thick-strewn fallacies are so shallow that a child of ordinary intelligence could scarcely be deceived by them. One more paragraph and I will pass on.

"We venture to assert that there is no jury in England or the United States which upon the evidence of this case of Judge Terry would not without leaving the box render a verdict of acquittal, and that this verdict would be received with acclamations

by the people. No man would be more willing or anxious than Judge Terry to refer himself to the tribunals of his country and to a jury of his peers for trial, to stand or fall by their judgment." Of this I have not the slightest doubt. The truth will crop out in places under the editor's pen in spite of himself. "But no; this privilege which the constitution of the United States and of this state secures to him is denied, and the humiliating spectacle is presented to Californians, of their own high officer, selected by their free, unbridled suffrages, taken by violence and escorted by bayonets of alien soldiers to the walls of a dungeon, to be tried, and, perchance, convicted without the forms of substance, and in violation of every justice, right, or even decency."

Sunday's sun rose bright upon the city. Glad hearts gathered in groups about the streets and talked of the events of yesterday. Worshippers quietly wended their way to church, and all was serene as eternal Sabbath. Let those whose breasts are on this day filled with grateful praise thank God for another bloodless victory. Let all the people praise Him. And let those noble men, those men of lofty principles and temperate practice, let them in his holy sanctuary praise God to-day for having given them grace calmly and righteously to perform their duties of yesterday under pressure of great excitement, and while in the possession of unlimited power. Great citizens of a great city, holding the fate of it in their fingers; and not a hair of the head hurt, even of the head of the monster crime which they had grappled!

CHAPTER XXIII.

PREPARATION FOR TRIAL.

False by degrees and exquisitely wrong.
Canning.

THE evening of the day of his arrest, preparations were made for the trial of Justice Terry. That the Committee hoped to make quick work of it is evident from the fact that at this meeting a motion was made and carried: "That we proceed to the trial of David S. Terry at ten o'clock A M., June 22d, 1856, and that after the trial has commenced, no recess to exceed thirty minutes shall be taken unless for want of evidence." Not only was this rule shortly after rescinded, but the trial was several times postponed. The same rules were adopted to govern in this trial which obtained in the trial of Casey. It was further resolved, "that no vote of the executive committee inflicting the death penalty shall be binding unless passed by two thirds of those present, providing that the trial jury shall not be composed of less than twenty-six members or two thirds of this body." This was afterwards changed so that three fifths could convict.

The committee on evidence was then directed to notify the distinguished prisoner that if he had any witnesses to be summoned, he should give their names in order to prepare for trial on the following day.

Upon the loss of their arms in the *émeute* of the 21st of June, the state rulers sent up another wail to the United States authorities for aid. Boutwell seemed to be their only sympathizer, and a pretext was now offered him, in the imprisonment of Ashe,

United States naval agent, to bombard the city, which he was greatly desirous of doing.

Sunday morning the executive committee received a letter from Captain Boutwell of the United States ship *John Adams*, desiring to know how long Mr Ashe would be detained by the Committee. The Committee replied that the time for his deliverance had not been determined upon; that it was their desire to afford him all possible facilities for the performance of his official duties, and that they trusted these unavoidable circumstances would occasion no inconvenience to the commander of the *Adams*, nor delay the departure of his ship from this port.

Ashe, being a federal officer, required delicate handling. That it was an outrage for a man in the employ of the general government to mix in the local affairs of the city, and to render himself obnoxious to the better sense of the best men, the Committee keenly felt. But their object was not war with the federal government; they merely wished to flush their political sewers and go about their business. This was necessary, and to accomplish it they would wage war in any direction if necessary, but they did not deem it necessary to involve themselves in difficulties with the United States government; and as Ashe had not been arrested for any crime, on receipt of the following communication it was resolved to discharge him, which was done the day after his arrest:

"*To the Executive Committee of Vigilance:*—

"I feel innocent of having committed any crime, and it is under the belief that you do not accuse me of any that I write to ask to be allowed to go on parole. If your body should allow me this favor I do promise, as a man of honor, strictly to comply, as far as being neutral in word and action while on parole. My official business must necessarily suffer while confined here. I will of course stand in readiness to obey your call.

"Yours, with respect, R. P. Ashe, *Captain of Co. A.*"

It is somewhat singular that it seems never to have occurred to Ashe or Terry that their official business suffered while intermeddling with the local affairs of

San Francisco, or until they were incarcerated for violent interference. After taking his testimony in the case of the people against Terry, Ashe was discharged. Lieutenant Haxton of the ship *Adams* was permitted to be present while Mr Ashe was giving his testimony.

Subsequently Ashe begged to be released from his promise, complained of the hard-heartedness of the Committee, and requested a copy of his letter. Mr Ashe was informed that release from his promises to the Committee would not be granted him, and that his case would not be opened unless he surrendered himself a prisoner and so cancelled his parole.

It was in the manner and style following that Volney now spoke to the Committee:

"HEAD-QUARTERS, SAN FRANCISCO, June 21, 1856.

"*To William T. Coleman and others, styling themselves The Vigilance Committee:*

"GENTLEMEN: I learn that a person named Hopkins, claiming to act under your authority, a short time since visited the room of Judge Terry in this city, rushed upon him, and attempted to disarm him, and otherwise assaulted him. Judge Terry in self-defence was compelled to use a knife, with which he inflicted a severe, and, perhaps, a mortal wound.

"From all the circumstances, as detailed to me, I have no doubt that should Hopkins unfortunately die, it would be a case of justifiable homicide.

"I am informed that Judge Terry is now in the hands of the police, and that the house in which he is situated is surrounded by a large armed force under your orders.

"I demand that the force be withdrawn and that Judge Terry be left in the custody of the officers of the law alone; that if he be in your possession or power he be restored to the officers of the law; and I pledge myself that he shall be held in safe custody to abide his trial and all legal proceedings.

"This is the only course which will avoid an immediate collision of arms, involving the peace of the state. VOLNEY E. HOWARD,

"*Maj. Gen. Fourth Division Commanding in San Francisco.*

"B. W. LEIGH, *Acting Aid-de-camp.*"

Monday, the 23d of June, Mr A. P. Crittenden directed a letter to Terry which the Committee declined to deliver; likewise the same day Judge D. O. Shattuck addressed an appeal to the Committee on behalf of Terry. By order Judge Shattuck's messenger was informed that the Committee had no reply

to make to his letter. Mr Crittenden was admitted to Terry's cell for half an hour the next day; likewise a delegation of citizens consisting of Balie Peyton, Ashe, Thornton, Perley, Lubbock, McAllister, and Benham.

Letter from Judge Terry to the Committee:

"SAN FRANCISCO, June 24th.

"*To the Executive Committee of Vigilance:*

"GENTLEMEN: I desired to see Mr Crittenden for the purpose amongst other things of requesting him to say to you on my behalf, that I have a wife and child dependent on me for support; that my personal affairs are complicated and involved, and as I have never confided my business to others it cannot be readily understood and settled except by myself; that if deprived of an opportunity of giving them my personal care for say two weeks, I believe no agent or admr. could or would save anything for my family, whilst I would be able in the above time to settle with all creditors and ensure to them a modest competence.

"For the purpose of ensuring to my wife and boy a support in case by your verdict they were deprived of my protection, and also to give me an opportunity of vindicating my fair name which is dearer far than life, I request that the charges against me be submitted to a legal tribunal in this city. The judges of the criminal courts here are, I believe, allowed by you to be honest in this case. You, by your power and influence over Scannell, can secure what you would consider an honest and intelligent jury, or if you distrust Scannell I will agree that the jury may be summoned by a person named by yourselves and for whose honesty you will vouch. I will interpose no delay except as above stated; will make no application for a change of venue or for bail, and will object to no juror because he is a member of your body or organization, for although at present the V. C. are naturally much incensed against me yet I will be well content after a few days give time for reflection to submit my cause to a jury composed of honest men though all may be members of the V. C.

"I will further agree that if death should ensue from the wound inflicted by me, I will at once resign my position, will make all the necessary arrangements, and if acquitted, will at once leave the state should you require it.

"I make this request solely for the reason that I do not wish to leave my family dependent on the charity of others; for myself I have sufficient fortitude to endure without flinching any fate which providence may have in store for me.

"If you do not grant the above request, I suggest that as to some of the specifications against me transpiring years since and at a distance, the witnesses are not forthcoming at this instant, but are near by in San Joaquin county, I desire time as to those charges (say two days), in which to procure those witnesses, as well as the most respectable gentlemen of Stockton from all sections of the Union to refute the aspersions upon my character.

"I submit the foregoing for your consideration. I am not personally acquainted with any of you, but am informed that your body is composed of men of honor. If so, you desire only to do justice, and I think no injustice can be done by pursuing the course I have indicated.

"Respectfully, etc., D. S. TERRY."

The same day the sergeant-at-arms announced to the Executive that the deputy United States Marshal was at their outpost demanding admittance to the building. Mr Dempster waited on the marshal, and on his return reported that his demand was probably for J. R. Maloney. The police and surveillance committees were then directed to remove Maloney, and such other prisoners as they might deem expedient, from the building, preparatory to the introduction of the marshal. The marshal was then admitted. In his search for Maloney the marshal, accompanied by Mr Dempster, entered the cell of Terry, but Mr Dempster would not permit any conversation between the two. After an unavailing search the marshal retired, and Maloney was brought back to his cell. At the morning meeting of the 25th it was ordered, "that in case any writ or subpœna issues from the United States court for Judge Terry, every effort to secrete him and thus avoid collision shall be resorted to, but in no case shall the said Terry be surrendered." The 2d of July the director of police informed the Executive that he expected every moment the sheriff of Contra Costa County with a writ of habeas corpus for the body of Louis Maloney. The director of police was instructed to put Mr Maloney out of the reach of the sheriff.

In many ways Mr. Maloney was interceded for; instance the accompanying letter:

"San Francisco, July 2, 1856.

"Gentlemen:

"At the request of Mr Maloney and his friends we beg leave to submit to you the following considerations, hoping that they may be of use to him in his present circumstances. We have known Mr Maloney many years, when a resident in the Atlantic States. Of the truth of the particular charges which may have been brought against him (they not having been made public) we of course are entirely ignorant.

"During the many years we knew him upon the other side, no charge derogatory to his character as a gentleman came to our knowledge.

"From our previous knowledge of Mr Maloney we should be slow to believe that he has by criminal practices forfeited his good name and character, and brought disgrace upon his respectable relations upon the other side, whose

honor and good name are intimately bound up with his. We address you as a mere matter of justice to one many of us have known from boyhood, and with the belief that what we have written will be received in the spirit in which it is submitted and will receive at your hands the weight and consideration to which it is entitled.

"With great respect, your obedient servants,

"JOS. P. HOGE,
"THOMPSON CAMPBELL,
"THOS. W. SUTHERLAND,
"W. W. FRENCH,
"P. BÉQUETTE,
"WALTER M. ROCKWELL,
"JAS. C. L. WADSWORTH,
"WM. BOTHWELL,
"HENRY B. TRUETT.

"*To the Executive Committee of the Vigilance Committee of San Francisco.*"

Three gentlemen of the executive committee were appointed to remain near the door and attend to such outside business as might be offered in order that the trial of Terry might not be interrupted. On Wednesday John Sime informed the Committee that there certainly was an organized plan of attack upon the vigilance building to take place that night by men with side-arms.

Whereupon at the next meeting Jules David offered the following resolution, which was adopted:

"In view of the large number of prisoners now in this garrison, and of the danger of an attempt at rescue by our enemies; therefore, resolved, that the marshal be directed to keep, until the trial of D. S. Terry is concluded, within these buildings a force of not less than seventy-five men, and to post sentries at the fol'owing points: Four men at the corner of Front and Sacramento streets; two men at the corner of Battery and Sacramento streets; four men at the corner of Commercial and Front streets; four men at the corner of Davis and Commercial streets; four men at the corner of Davis and Sacramento streets; two men at the corner of California and Davis; four men at the corner of Front and California streets; two men at the corner of Front and Battery streets; two men in front of M. F. Truett's building, besides a strong guard inside of the sand-bags on Sacramento and Davis streets. Also to keep a picket of twenty-five armed men on the lower floor of this building, ready to be marched at a moment's notice to any point where they may be needed."

For such troublous times, for purposes of defence, the vigilance quarters were weak, the Committee knew they were weak. They were chosen for their

convenience of location, and intended only for temporary use. Their cause was fortified in the hearts of the people, where alone their strength lay. Blow to atoms Fort Vigilance, seize their arms and ammunition, raze to the ground every building in San Francisco; all this does not affect the cause one whit; only a slaughter of the citizens will persuade them from renovating their city. Almost any spot would serve as a rendezvous.

Every effort was made to intimidate members of the Committee; numberless letters were written and messages sent to members of the Committee, containing threats against property and life. It was their determination if possible to capture the Executive, and either hold them as hostages, or dispose of them in some other way. Certain of the Committee were so sure that attempts at capture would be made, that on going home from the Committee rooms at night they carried a cocked revolver in their hand. Others would not go home at all, but bivouacked at head-quarters. A body of Texans, they were told, were coming from the San Joaquin region to take them. They would attack them from the Bay, and so apprehensive of it were they that they blocked all the sewers by which approach to head-quarters could be made. Their plan was said to be to carry in gunpowder through the sewers and blow up the buildings.

It is said that for weeks during the trial a sharp-shooter lay hidden in the saloon on the north-east corner of Front and Sacramento streets, who in case Terry was hanged purposed with a rifle-ball to cut the rope. Whether this story is true or not it shows to what desperate straits their thoughts led them for his release.

As his last resource, the governor on the 27th of June addresses a strong appeal to Captain Boutwell, concluding thus:

"From the state of things now existing in San Francisco, and I may say in other portions of the state, I have no hesitation in saying that his life is in

imminent danger and peril from the lawless violence of said Vigilance Committee, and it is wholly beyond the civil and military power of this state to protect him from such threatened violence, without the resort to means which would, in all probability, involve the state in civil war, a calamity greatly to be deprecated under all circumstances, and which I am most earnestly desirous shall be averted.

"Wherefore, in the name and by authority of the power vested in me as governor of the state of California, I ask at your hands, and with the power and means under your command, the protection and security of the said David S. Terry from all violence or punishment by said Committee or any other power, except such punishment as may be inflicted on him in due course of law.

"In testimony whereof, I have hereunto subscribed my name, and caused to be affixed the [L. S.] State of California, on the 27th day of June, 1856.

"J. NEELY JOHNSON."

Judge Terry also appeals to Boutwell, sending his letter by one of the friends which the Committee were lenient enough to admit to his presence.

"SAN FRANCISCO, CAL., June 28, 1856.

"SIR: I desire to inform you that I am a native-born citizen of the United States, and one of the justices of the supreme court of the state of California, and that, on the 21st day of June instant, I was seized with force and violence by an armed body of men styling themselves the Vigilance Committee, and was conveyed by them to a fort which they had erected and formidably intrenched with cannon in the heart of the city of San Francisco; and that, since that time, I have been held a prisoner in close custody, and guarded day and night by large bodies of armed men with muskets and bayonets, by order of the said Committee. I desire further to inform you that the said Committee is a powerful organization of men acting in open and armed rebellion against the lawful authorities of this state; that they have resisted by force the execution of the writ of habeas corpus, and have publicly declared, through their organs, that their will was the supreme law of the state.

"The government of the state has already made ineffectual efforts to quell this rebellion, and the traitors, emboldened by success, have already hung two men and banished a great many others, and some of their members now openly threaten to seize the forts and arsenals of the United States, as well as the ships of war in port, and secede from the federal Union.

"During my imprisonment I have suffered the indignity of being handcuffed by these rebels, my friends are denied all access to me, and all kinds of terrorism are resorted to to compel me to resign my office. I desire further to inform you that said Committee is now engaged in trying me as a criminal for attempting resistance to their authority, and also for an assault with intent to kill one of their members, whilst I acted solely in defence of my own life against their assaults on the public streets, and that I am in hourly danger of suffering an ignominious death at the hands of these traitors and assassins.

"In this emergency I invoke the protection of the flag of my country. I call on you promptly to interfere, with all the powers at your disposal, to protect my life from the impending peril. Let me remind you of the conduct of the noble and gallant Ingraham, when the life and liberty of a man only claiming to be an American citizen was concerned. From your high character, I flatter myself that this appeal will receive your early and favorable consideration.

"I am, sir, very respectfully, your obedient servant,

"DAVID S. TERRY,

"*Justice of the Supreme Court of the State of California.*"

In the supercillious tone of one born to command Captain Boutwell now writes the Committee:

"U. S. SHIP 'JOHN ADAMS,'
SAN FRANCISCO, CAL., June 28th, 1856.

"GENTLEMEN: You are either in open rebellion against the laws of your country, and in a state of war, or you are an association of American citizens combined together for the purpose of redressing an evil, real or imaginary, under a suspension of the laws of California. If you occupy the position assigned to you by Judge Shattuck, one of your ablest judges, and one who sympathizes with those who wish to reform abuses under the law, I, as an officer of the United States, request that you will deal with Judge Terry as a prisoner of war, and place him on board my ship. But if you desire to occupy the position of a party of citizens acting under a suspension of or against the law of California, you will, I think, on reflection, and from a desire to conform to the requirements of the constitution of your country, from a due regard to justice, and, above all, from a desire to avoid the shedding of American blood by American citizens, on American soil, surrender Judge Terry to the lawful authority of the state. You, gentlemen, I doubt not, are familiar with the case of Kostza. If the action of Captain Ingraham in interfering to save the life of Kostza, who was not an American citizen, met the approbation of his country, how much more necessary is it for me to use all the power at my command to save the life of a native-born American citizen, whose only offence is believed to be in his effort to carry out the law, obey the governor's proclamation, and in defence of his own life. The attack of one of the policemen of the Vigilance Committee, who perhaps would have killed the judge if the judge had not wounded his adversary, was clearly without the sanction of law. Gentlemen of the Committee, pause and reflect before you condemn to death, in secret, an American citizen, who is entitled to a public and impartial trial by a judge and jury recognized by the laws of his country. I trust you will appreciate my motives and consider my position. I most earnestly pray that some arrangement may be effected by which peace and quietude may be restored to the excited community.

"I have the honor to be, very respectfully, your obedient servant,

"E. B. BOUTWELL, *Commander.*

"*To the Executive Committee of Vigilance.*"

To this communication the captain of the *Adams* received the following reply:

"EXECUTIVE COMMITTEE CHAMBERS,
SAN FRANCISCO, June 28th, 1856.

"DEAR SIR: Your communication under even date with this, was received a short time since, and I am directed by the executive committee to state to you that its contents will receive our consideration.

"I am, sir, respectfully, your obedient servant,

"33, *Secretary*."

After which Boutwell wrote the governor somewhat discouragingly:

"U. S. SHIP 'JOHN ADAMS,'
Off San Francisco, Cal., June 29, 1856.

"GOVERNOR: I have had the honor to receive your communication of the 27th inst., and after giving it the consideration so important a document deserves, I am sorry to be compelled to inform you that the unanimity with which the people of the city of San Francisco deprecate any interference on the part of the federal government with their affairs, would, I think, were I to interfere, do much injury, endanger the life of Judge Terry, and delay the settlement of the unhappy controversy now existing between the state government and a very large proportion of the citizens of the city of San Francisco. I understand that the condition of Mr Hopkins is improving, and, in a few days more, he may be so far recovered as no longer to afford the Vigilance Committee any excuse for keeping the judge in custody. A civil war, the greatest of horrors, ought to be avoided, if possible, and any interference of mine to obtain the person of Judge Terry, without the sanction of the Committee, may bring about one. I could destroy the city of San Francisco with the guns of the *John Adams*, but, in the ruins, friends as well as others would suffer. If I could persuade the Committee to set Judge Terry at liberty, I should be most happy to do so. If I demand his release, and they fail to give him up, I must either batter the town down or render myself ridiculous in the eyes of the world, and incur the displeasure of my government, neither of which is consonant with my present feelings. If Hopkins dies, and the Committee condemn Judge Terry to death, I will make an effort to save his life in such a manner as not to be offensive to my fellow-citizens. I have the honor to be your obedient servant,

"E. B. BOUTWELL, *Commander*.

"*His Excellency J. Neely Johnson, Governor of the State of California.*"

Boutwell, not satisfied with the somewhat curt reply of the Committee to his letter, on the 30th of June writes again reminding them of his communication of the 28th, and requesting an answer. The committee replied: "We have submitted the whole correspondence to your superior officer, Captain D. G. Farragut."

It will be remembered that prior to the organization of the committee the *Adams* had been lying at anchor at Sauzalito; and shortly after she came over and took her station at the foot of Sacramento street, where she menaced head-quarters, and whence her captain made no secret she would take great pleasure in shelling the town.

Little attention was paid at first to this movement, as the Committee had no thoughts of quarrelling with the home government; when so unexpectedly they found among their lodgers a justice of the supreme court and a United States naval agent, and the commander of the *Adams* seemed every day to grow more and more belligerent, the Committee deemed it prudent either to yield obedience or to prepare for an attack. As they never were stronger than now, and had never for a moment faltered, they did not hesitate a moment what course to adopt.

J. D. Farwell was at this time chairman of the marine committee, and as such it devolved on him to afford protection from attack from the sea. Immediately Boutwell began to threaten, a meeting was held and the following course resolved on: The plan was to place in an old hulk lying convenient two hundred vigilant sharp-shooters, picked riflemen; and the moment Boutwell opened fire, to lay this vessel alongside his ship by means of two tugs, the riflemen to begin their shooting the moment they came within range, and as soon as they reached the *Adams* to jump on board, clear the deck, and take possession of the ship. The hulk was made ready to slip her cable and fasten to the tug-boats in an instant; the tugs were kept in readiness night and day with steam up, and the riflemen were waiting ready at a moment's notice at head-quarters, so that it was estimated that half an hour at farthest would be ample time in which to silence the *Adams*, should she open fire at any hour of the night or day. If by any possibility this plan

should fail, floats were prepared with combustibles attached with chains to swing with the tide, and so drop down upon the *Adams*.

Another plan was for the committee to take possession of Alcatraz and other forts in the harbor, and bring their guns to bear upon the *Adams* in case her commander carried his threat into execution; and the generally expressed opinion was that had such an attempt been made not a man would have been left alive on board the vessel, there being among the eight thousand vigilants then under arms, many men-of-war's men and naval officers accustomed to marine war matters, to firing cannon, boarding vessels, and who were not afraid to make the attempt; and as she unquestionably would have been attacked on all sides by steam-going craft, her chances of escape would have been small.

The evil enthusiasm of Boutwell brought the Committee into communication with Farragut, who gave the Committee to understand that he disapproved of the action of Boutwell, and assured them that so long as they continued in the line at present pursued and indicated, while regretting the existing state of affairs, he would not molest them. Very properly he hoped they would terminate their work as speedily as possible, which the Committee assured him they would be only too glad to do.

Mr Coleman had long personal interviews both with Farragut and with Wool in which he explained to them the nature, origin, and purpose of the campaign, and in these interviews and explanations both officers expressed themselves well satisfied with the integrity of the Committee and the necessity of their course. Both deprecated the rash action of the opposition, and regretted the necessity that impelled the Committee into unknown depths; as officers their positions could not be compromised, but as long as it lay in their power, and so far as their influence extended, the federal government should remain neutral.

The great point with these gentlemen was whether there was in the movement anything of a political, secession, or Pacific-empire nature, and when satisfied that there was nothing of this kind, no disloyalty lurking under the guise of patriotism, as is too often the case, they were content as to the rest, and so expressed themselves.

The same day that Boutwell's letter was received by the Committee, Farwell and one or two others were despatched to Mare Island to see Farragut. All the Steam Navigation Company's boats were at the order of the Committee. Farwell took the four o'clock up-boat for Benicia, and ordered the down-boat to wait for him there. Proceeding to Mare Island the vigilants found Farragut in bed, it being by this time about twelve o'clock at night. Rousing him the messengers made known their business. They were courteously received, and wine placed before them.

Farwell then explained the character and purposes of the vigilance association, and expressed the hope that it might not come in contact with the federal authorities.

"Your navy agent arrayed himself against us with arms upon the streets," said Farwell, "and we have taken him. We do not want him, and if you think the service will suffer, we will let him go."

"No, no," exclaimed Farragut, "I don't think the service will suffer."

"Boutwell threatens to fire on us," continued Farwell, "and we hope you will interpose your authority to prevent it."

"Boutwell shall hear from me," was the captain's reply.

Captain Farragut continued to express sympathy with the Committee, although he had but little to say about it. Farwell spoke never a word about his old hulk, his two hundred riflemen, and his float of combustibles.

Shortly after Boutwell received the following letter from Farragut:

"MARE ISLAND NAVY YARD, July 1st, 1856.

"DEAR SIR: I yesterday received a communication from the Vigilance Committee enclosing a correspondence between yourself and the Committee, in relation to the release of Judge Terry, and requesting my interposition. Although I agree with you in the opinions therein expressed in relation to the constitutional points, I cannot agree that you have any right to interfere in this matter, and I so understood you to think when we parted. The constitution requires, before any interference on the part of the general government, that the legislature shall be convened, if possible, and, if it cannot be convened, then upon the application of the executive. Now, I have seen no reason why the legislature could not have been convened long since, yet it has not been done, nor has the governor taken any steps that I know of to call them together.

"In all cases within my knowledge the government of the United States has been very careful not to interfere with the domestic troubles of the states, when they were strictly domestic, and no collision was made with the laws of the United States, and they have always been studious in avoiding as much as possible a collision with state-right principles. The commentators Kent and Story agree that the fact of the reference to the president of the United States by the legislature and executive of the state is the great guarantee of state rights.

"I feel no disposition to interfere with your command, but so long as you are within the waters of my command, it becomes my duty to restrain you from doing anything to augment the very great excitement in this distracted community until we receive instructions from the government. All the facts of the case have been fully set before the government by both parties, and we must patiently await the result.

"Very respectfully, your obedient servant,

"D. G. FARRAGUT, *Commandant Mare Island.*

"*Commander E. B. Boutwell, commanding U. S. ship John Adams, California.*

"P. S.—We must not act except in case of an overt act against the United States. Yours, "D. G. F."

In answer to which Farragut received the following:

"U. S. SHIP 'JOHN ADAMS,'
Off San Francisco, Cal., July 2, 1856.

"MY DEAR SIR: I have received your letter of the first instant, and as I do not wish to 'augment the very great excitement in this distressed community' by my presence, I shall go to sea as soon as possible. I think it due to myself, however, to state, that I considered my ship, after I left the navy-yard on Mare Island, to be under the command of Commodore Mervine, or I should have consulted you in regard to the action I took to obtain the release of Judge Terry, and therefore did not mean to treat you with any disrespect;

indeed, I would have done so anyhow if it had been convenient. It is true that we concurred at one time in the opinion that we ought to wait for orders from Washington before taking any part in the San Francisco troubles; but the fact of your having consented to serve on a committee to settle the controversy between the state authorities of California and the Vigilance Committee, induced me to believe that your opinion on the subject had undergone a change. In regard to the interference of the federal officers, I am unable to discover any difference, so far as the doctrine of state right is concerned, between the position of the commander of the navy-yard at Mare Island, who acts, or consents to act, as a commissioner to settle the terms of peace, and the commander of the *John Adams*, who writes a letter to the Committee of Vigilance, asking that the life of an American citizen may not be taken in haste, and that he may be dealt with according to the laws of his country. I am a state-rights man myself, and therefore do not believe that it is any part of the creed to overturn the laws of the state, hang men without a trial by jury, and imprison a judge of the supreme court. Independent of all this, they, the committee, have interfered with the federal government in arresting the navy agent of this port, without legal authority, and in violation of the dearest rights guaranteed by the constitution of the United States to every citizen.

"In conclusion, sir, I must inform you that I have been applied to by the governor of the state, Judge Terry the prisoner himself, the collector of the port, the United States marshal of this district, and appealed to by the distressed wife of the judge, to interfere in this unhappy controversy between a portion of the people of San Francisco on the one side, and the state on the other; and what I have done has been dictated by humanity, a conscientious discharge of my duty, and I am prepared to meet the consequences.

"I am, sir, very respectfully, your obedient servant,

"E. B. BOUTWELL, *Commander.*"

No notice was taken of this somewhat impertinent epistle by Farragut, except that portion of it threatening to put to sea, to which reply was made as follows:

"MARE ISLAND NAVY YARD, July 3d, 1856.

"*Commander E. B. Boutwell, Commanding U. S. ship 'John Adams:'*

"SIR: You will remain where you are, until further orders from me.

"Your obedient servant,

"D. G. FARRAGUT, *Commandant Mare Island.*"

Up to the time of the arrest of the naval agent Ashe, Farragut had sympathized with the efforts of the Vigilance Committee. But Ashe was a federal official, and his person, under whatsoever circumstances placed, must be regarded as sacred by federal commanders. No one had any respect for the gover-

nor. Farragut does not seem to have been specially pleased with Johnson, Sherman, and Terry, and with their attempt to draw General Wool into their quarrels. He had respect for the reformers, whom he believed to be engaged in a good work until they touched one of his little federal idols. They might defy the governor, and hang any one who was not of his fold. It made quite a difference as to the right of the matter, whether the person charged with bad behavior was a servant of the state of California or of the United States.

The 30th of June Farragut briefly reviewed the situation in a letter to Dobbin, secretary of the navy, stating matters in the main correctly. Although written nine days after the affray, nothing is said of the arrest of Terry, Ashe, and "our old naval storekeeper Maloney." But soon afterward, nothing having intervened to alter the situation, Farragut's mind seems to have undergone a change. Evidently he had made up his mind, as some years later was the case with regard to fighting for or against his countrymen, that in case of a conflict, right or wrong, he must be found on the side of the strongest, which unquestionably would be that of the federal authorities. Therefore when he again wrote Dobbin the 2d of July, his tone in speaking of the Vigilance Committee had somewhat changed, and his statements were not all of them correct. The correspondence that followed between Farragut, Dobbin, and Boutwell becomes lengthy and tiresome, and as it involves neither information nor principle I will for the most part pass it by. The statement regarding the capture of the chivalry that "the Vigilance Committee claim it to be a successful revolution" was not true; and the intimations that Ashe and others were released on account of the action or attitude assumed by the Mare Island commander were equally erroneous, the Committee acting, in fact, without greatly concerning themselves about him. The discharge of Ashe was

wholly voluntary on the part of the Committee, the letter from Farragut requesting them to do so not being received until after the naval agent had been set at liberty.

By the 17th of July the government party "are unable to resist the grossest outrages and excesses committed by the vigilance party." By August fears were pretended lest the "associated mobites, styling themselves a vigilance committee," should steal some four millions of government money then in San Francisco. Farragut well knew that he was misrepresenting the Committee and their acts when he wrote his government: "These people have been running riot, and setting all law and the constitution at defiance, and I did not know at what moment they would seize the money at the branch mint. The history of nearly all revolutionary movements shows such to be the result the moment the *canaille* get the upper hand." Farwell, and Case, and Coleman, Farragut had seen and corresponded with on the subject. He knew them, their past lives and their present purpose. Does he really believe that they, with Tillinghast, Seligman, Brittan, Goddard, Hale, Meyer, Tubbs, Wallace, Titcomb, Rogers, Osgood, Hutchins, and the rest, will fill their pockets at the mint, or permit others to do so? Are they fair and manly words which place such men as Selby, Flint, Baker, Pearce, Vail, Hubbell, Grisar, Taylor, Badger, Sheppard, Webb, David, with half the other respectable merchants, and bankers, and mechanics of San Francisco, in the category of *canaille?*

CHAPTER XXIV.

THE PRISONER AND THE INVALID.

On which side you please; I hear you.
Rabelais.

Egoism and patriotism are close akin, the one being for one's self and the other for one's country. Both are of divers phases, and may be admirable or detestable. There is little apart from selfishness in gods or men; but there are some species of selfishness which are less unlovely than others; indeed, there is a selfishness so refined as to be taken for the most exalted self-denial. Love and self-sacrifice are one form of egoism; hate and the sacrifice of others are another form.

There have been instances where men have apparently loved their country more than themselves; that is, where they would forego wealth, power, fame, if thereby they could the more fully benefit their country. But with most men it is found far easier to sacrifice others to their country than themselves. Whatever we or our country may be, we must uphold that right or wrong, and that is self-respect and patriotism. The patriotism of an opponent is a patriotism which has not one redeeming trait, being a subterfuge, a trade, a means of self-exaltation.

The egoism and patriotism of David S. Terry were not of this base order. He did not love himself to the hatred of all other men; he had a host of friends, for almost any one of whom he would risk his life. He did not love himself so far as to desire the supremest blessings and benefits for himself, the next

best for his friends, and for his enemies none at all. Whatever may be said with regard to his enemies, he always had friends whom, so far as lay in his power, he preferred in honor and profit to his own interests. Elsewhere he preferred himself.

Nor were his egoism and patriotism of the highest order. His loves and hates were tensely strung, so as to subordinate reason and the nobler instincts of the mind wherever were touched the objects of his solicitude. In the presence of his friends his self-regard blazed into a fiery tenderness for them; and this love he lavished on all born beneath his native skies, on all who saw as he saw, who entertained the same ideas of manhood, and translated honor and nobility of nature out of the same vehement lexicon.

Turning to the history of Texas, we find no men on earth more brave, high-spirited, and chivalrous than those who fought out, first secession from Mexico, and then independence, and a proper place in the great republic. There was everything about the conditions and environment, political and material, of the early settlers in Texas from the United States to make them strong lovers of country. Houston, Austin, and the rest were not always right, but they were generally so, and were always found battling for what they deemed the best interests of a new and independent commonwealth. And this was not so very long ago; and there was not a Texan living in 1856 on whose character the early exploits of their countrymen were not visibly stamped. Look at Jack Hays, the Texan Ranger; brilliant, fiery, fearless, but not more fearless and fiery then Terry, who likewise possessed marked talents as a jurist. Many old Californians will remember Colonel Gift, a jovial southerner, skilled in blasphemy, the very counterpart of the psalm-singing Yankee. Hays was a prominent politician as well as warrior; Terry's physical courage was in no way behind his mental ability. It was remarkable, the intensity of his nature in every direction; hence it is no

wonder that when the bent of such a mind took a certain direction, right or wrong, on any given proposition, it would follow that line to the end, though destruction and death stood in the way.

We can easily understand how, to these chivalrous southerners, the northern men of merchandise, with their prim and puritanical ways, were at times exceedingly distasteful. Besides the prejudices of class and country, the question of slavery was then at its hottest, and entered into most of the measures of the day, permitting few permanent friendships between persons from the two different sections. Like the chivalry of Spain, and the upper class of all countries where enforced labor is common, the southern gentleman looked down upon work, even shop-keeping being placed by him in that category. He might own lands and negroes, raise cotton, tobacco, and hogs; but to manufacture cloth from the cotton, to peddle out the tobacco, or cut up and smoke the swine—those were occupations more befitting the white trash, whether of the south or north. Thus we see how differently such men must ever be regarded by those who view them from different standpoints.

He was not sordid; he could not love gold strongly; while so fully absorbed by one passion, it was impossible for him hospitably to entertain all the other passions. His intellect was subtile as well as broad and solid, yet its subtility was tinctured by the same prejudice which discolored all other objects. He was a kind husband, a good father, and an honest man. He was imbued with a chivalrous sense of honor, but in his mind chivalry and honor were in their nature, as from a northern standpoint, misconstrued. The essential and fundamental qualities of both in the eyes of the bacon-venders were lacking. Chivalry, they claimed, he placed before humanity, and honor before justice. His nature was more than ordinarily fine, but his mind had been early deflected by environment. Take at that day a southern man with southern principles,

place him in antagonism with northern men and northern principles, let him have withal a love of slavery, of feudalistic force and mortal arbitrament in the determining of differences, surround him with an atmosphere of flaming love of self, of kindred, friends, and country, of strong dislike toward things foreign, especially if encountered in opposition to preconceived notions of manliness and honorable bearing; cast such a character loose in California in the days of the Inferno, give it boon companions, flatterers; give it position, influence, generous wine, and fair women—and you have a strong partisan, a man of honor and integrity among sympathizing friends; while among enemies it was impossible to foresee what at any moment might happen. It is a character glaring with inconsistencies and contradictions, a character which must needs gratify all its own law-breaking propensities, but denies under the statute any such right to others.

There must have been much that was good in Judge Terry to have made him so many warm friends. But we must remember that at that time he was the champion of a party, the representative of a powerful clique, whose instincts were, like his, displaying themselves by like exploits. Ashe and Terry in 1846 had been privates in Bellew's company of mounted rangers, under the command of Hays, of Taylor's division. "I know," says Ashe in his testimony at the trial, "that as a soldier and a patriot he has not his superior, and that as a citizen his characteristics are a love of equity, and a warm, kind, generous heart." He was proud and haughty in the presence of strangers. In the Blues' armory, just previous to his surrender, when Ashe assured him of his friendship, pledging himself to stand by him and fight it out, it is said that Terry burst into tears, and said: "No; I hate to surrender to a mob, but I have acted only in self-defence."

As one among a thousand who had a clear opinion on the subject, I may mention Edward F. Northam. Mr Northam was a native of Newport, Rhode Island.

His father was active as one of the merchants and ship-owners of that town when it ranked but third in importance among American ports. Naturally, when Mr Northam came to California he engaged in business, and when crime got the upper hand, he was active in putting it down. "Talk about the legality of the acts of the Vigilance Committee," says Mr Northam; "was the Declaration of Independence a legal document? Were Luther's theses orthodox? How many of the great reforms, reformations, and revolutions of the world which have delivered mankind from the power of evil have been legal?"

Of one of the judges of the high court of California, the Nevada *Journal* of the 11th of July writes:

"Foremost among the evils brought to light by the researches of the Vigilance Committee, is one which the community appears to have lost sight of in the hot pursuit of election frauds and kindred iniquities. An evil, too, the magnitude of which would hardly be appreciated at first glance, but which goes more directly to the foundation of society than any of those offences which have called down the just indignation of the people. We refer to the charge of favoritism as urged against our highest judiciary.

"In this tribunal and its integrity, the public look for those enunciations of law and declarations of principles in which society originated, by which rights are maintained and wrongs redressed. In these, the precedents established by past wisdom, we have the guiding star for the jurist of the present, and that certainty of the law which best secures the safety of citizens.

"But when the expounder of this law, raised as he of necessity must be from the people, carries upon the bench the prejudices of the man; whenever justice stoops to recognize either in favor or enmity to the advocate, or weighs in the scales aught but law, there is danger for the people and shame for the bench.

"Thus perverted, we can easily imagine such a state of affairs, and equally foresee its disastrous results. We can fancy a judge, surrounded by sycophants and flatterers, playing the wet-nurse to scores of legal bantlings, whose only merit is their slavish subservience, and whose fulsome adulations are the food of their idol. And rewarded by the fostering care of the bench we can picture these men crawling from beneath that ermine, which, adding authority to ignorance, and concealing neither, is itself disgraced. We can fancy these legal parasites, playing before the world upon those weaknesses which intimacy has revealed or confidence acknowledged, while real merit and ability stand distanced in the race where personal considerations outweigh justice. We can see precedent distorted or disregarded, in order to raise some pygmy or crush some man, from enmity to its advocate, and wrong exultingly vindicated from a sickly fondness for its apologist.

"Where such a state of affairs exists we can see no end to the mischief which must follow in its train. If justice cannot maintain itself upon its own

high merits, it must be purchased through its familiar, and its suitor must approach the bench as do the subjects of eastern despotism the throne of the monarch, through some effeminate eunuch who ministers to the pleasures and pampers the folly of the tyrant. By the side of this monster curse lesser evils dwindle away. An imbecile executive we can endure. Senseless legislation can be remedied. But when, to the ignorance of the framers of our laws, we add corruption in its expounders and pets in its practice, the main pillar in our governmental fabric is rotten, the rights and security of the citizen are lost, and the state totters upon the verge of ruin."

Mrs Terry was in Sacramento at the time of her husband's arrest. As soon as she learned of the unfortunate affray she came to San Francisco, and proceeded to the Committee rooms. She was at once admitted and treated with every courtesy. She was of a courage no less proud and fiery than that of her husband. Efforts had been made to induce the justice to resign his seat upon the supreme bench, and Hopkins' pulse had much to do with his in the matter. When Hopkins was low Terry would resign; when Hopkins was up Terry would "see the pork-sellers damned first." Sitting one day in her husband's cell, she said to him: "Judge Terry, I would rather see you hanged from one of those windows than to know you were compelled to resign your official position!"

A letter from Mrs Terry addressed to the public appeared in the *Herald* of July 2d. In it she complains of having been refused access to the room of her husband, and of the privilege of writing him privately. The reason she assigns I will allow her to state in her own words: "I may mistake, but I believe I am denied the happiness of seeing my husband, that my feelings may be so agonized that I shall be willing to entreat him to resign the office to which the voice of his fellow-citizens called him. I cannot tempt him to dishonor. I know my husband too well to suppose that any influence would induce him to betray a trust confided to his care. He may err in his zeal in defending that trust, but he cannot be coerced into resigning it. At the same time I know him well enough to believe that if a majority of the

people of California desire to recall the trust with which they have honored him, he will yield a prompt acquiescence to such a wish, provided it be expressed in a way sufficiently clear to satisfy reasonable men that it is the will of the majority of the whole people."

The fact is, Mrs Terry was treated by the Committee as a lady and as an afflicted wife, with the utmost politeness, and with the kindest consideration. For a time she was permitted to visit and remain with her husband as much as she pleased, but free and continued ingress and egress were deemed unsafe by the Committee, in view of the determined character of the man, and the constant efforts of his friends to effect his escape. Her insinuation that the Committee sought by adding unnecessarily to her sufferings, to effect the resignation of her husband, we may excuse. The Committee, however, were not desirous of forcing his resignation in any way. In the first place, once liberated he could claim that such an act under coercion was illegal, and so retain his seat; and in the second place, they could treat him as they did other captives if they thought fit—hang him if his victim died, and banish him from the country if he lived. I fail to see that it was a matter of much consequence to them whether he resigned or not.

During the whole period of his confinement Judge Terry was treated with every courtesy and fairness by the Committee. All reasonable requests were granted. The day after his arrest Judge Thornton and Mr Crittenden were permitted to see and converse with him for a few minutes in the presence of Messrs Arrington and Truett of the Committee; Mrs Terry was admitted without escort beyond his door. He was regarded as a high state prisoner; his late official position was never for a moment forgotten; neither was the duty of the Executive to themselves and to the people. The prisoner was permitted to see his friends and family until after trial began, and until after threats to rescue him were freely bandied, and

from that time the Committee deemed it incumbent on them to deny even Mrs Terry access to his cell. The person of Mr Terry was searched by the police after the visits of Mrs Terry, that no weapons or other implements might be left in his hands.

"It is said," remarks the *Alta* of June 25th, "that Terry is greatly affected by the position he now occupies, and deeply regrets the causes that led to his incarceration. The narrow compass of his dungeon, and the close proximity of a number of armed soldiers, are not calculated to give one of his proud, spirited feeling very agreeable sensations. His confinement will furnish him an opportunity for mature reflection upon his unjustifiable course for the last month, and doubtless will cause him to regret the unwise step he has taken. Great stress is placed upon the fact that he may have been assaulted first by Mr Hopkins before he gave the deadly blow to his victim, and for this reason his friends claim that he is guiltless. It should be remembered that his offence does not consist merely in the attack upon Mr Hopkins, but he is justly censured and properly held responsible not only for the blood of Hopkins, but his continued and uncalled for warfare upon the Committee, the issuance of the worthless but mischief-making proclamation, as well as the illegal writ of habeas corpus, and the collection of arms in our midst, to be used against those who oppose his will. These acts, as well as his continual presence in this city, ready to encourage and bring on a collision between the parties, are chargeable to him, and for which he will be held responsible. It was rumored last evening and generally believed by his friends, that Judge Terry would in all probability tender his resignation as associate justice of the supreme court, during the night. We trust this rumor is not without some foundation, as it must be evident to all that he can never exercise the functions of his office again to the satisfaction of the people of the state. He has already forfeited his moral right

to the office, and the sooner he lays aside the judicial robes the better it will be. It cannot be supposed, however, that this step can have any influence upon the action of those who now hold him in custody. He will be tried upon the merits or demerits of his criminal conduct, regardless of any and all official honors. It was also said that his friends had pledged that if released now, he would leave the state voluntarily; but little credence could be given to this proposition."

"The difficulty at San Francisco is approaching a crisis," says the Nevada *Journal* of June 27th. "From gentlemen who have just returned from the bay, we learn that the Vigilance Committee are sorely tried. Their moral courage and integrity are put to the fullest test. It is undeniable that the outside pressure is almost overwhelming. The passions of the crowd are excited and demand blood to appease them. The life of Judge Terry is represented as hanging by a single hair. Outsiders are clamorous for his execution. If the Vigilance Committee stand up against the storm which now beats around them, and deal out impartial justice, unawed by the official station of their prisoner, or the danger from an infuriated populace, they will become the heroes of the day. Thus far, all is well. In them the people have unlimited confidence. They must not prove false to the trust reposed in them. The good sense and moderation of the whole state is invoked in this emergency. San Francisco rests upon a mine to which Governor Johnson and his demoniac crew are anxious to apply the torch. Why cannot some of the presses of the unhappy city be more mild, more rational, and more soothing in their appeals to an excited populace? They are adding vim to the whirlwind instead of tempering the elements. Moderation on both sides would soon restore order to its wonted channels once again, which is a consummation devoutly to be wished. The public mind has been feverish long enough and needs repose."

Had Hopkins been king of America he could not have been better attended. For upon his living or dying hinged much; more than the life of Terry hinged upon it, for that were not much. The Vigilance Committee, from the assumption of doubtful powers, might have been led into excesses, and so brought to shipwreck. Broderick would have remained longer in the flesh had Hopkins died. But Terry did not want him to die, nor Terry's friends, neither did the Committee, nor yet Hopkins, though Hopkins for a consideration would have remitted Terry's punishment, and Hopkins' wife and mother for a consideration, peradventure, would not mourn their lives away had Hopkins died. Better to be a rich widow than a poor wife.

A Committee was appointed to take charge of the invalid that he should not die. The house of the Pennsylvania Engine Company, number twelve, was furnished fit for royalty. The carriages were taken out, beds and carpets spread, and all the comforts and conveniences of the sick-room arranged. The street was closed, the sidewalk muffled, and guards marched solemnly to and fro. But however careful the vigilants were of Hopkins' life, the men of law and order were infinitely more so. Says Dr Cole, who had entire charge not only of the case but of the premises and the officers in attendance: "So great was the interest felt in Judge Terry's fate by his friends in every part of the state, that I was hourly in receipt of telegrams from medical men and laymen from every quarter, particularly from Stockton, inquiring as to Hopkins' condition, and the probable result of the case; and I know that there was an organization brought into existence after the stabbing of Hopkins, composed of the friends of Judge Terry who were sworn in the event of Hopkins' death to take my life, under the conviction that I was the employé of the Vigilance Committee, and that in order to establish a precedent and principle from the Committee's standpoint I would sacrifice

the life of Hopkins." Instead of the Committee desiring Hopkins' death, Cole goes on to say: "I was daily visited by the several members of the executive committee, and on every interview with them the greatest possible anxiety was expressed in that direction, each seeming to recognize the magnitude and importance of a result which it was desirable by every possible means to avert."

Dr Cole was called before the Executive for his opinion upon the condition of Hopkins. He informed the Committee that the wound would have proved fatal in five minutes but for the operation, and that the critical period would be from the third day to the twelfth day.

The law and order men seemed fully to realize the importance of Hopkins' recovery. "I will give you ten thousand dollars to save that man's life," said a friend of Terry's to Dr Cole on one occasion, while the invalid was beginning to convalesce. During Hopkins' illness a bulletin of his condition was posted daily, round which eagerly crowded alike friends and foes.

The uncertainty of Hopkins' recovery, the efforts of Terry's friends, and pressing duties of the Executive greatly retarded the trial. Both sides seemed backward about bringing it to a termination. The Committee did not wish to hang or banish the justice of the supreme court, and the justice did not wish to be hanged or banished. It was a business distasteful to both sides.

The 5th of July the American Theatre Company tendered Hopkins a benefit while upon his sick-bed. About the coolest incident of this trial was his appearance in person before the Executive on the 5th of August, asking an interview with Terry for the purpose of arranging the whole matter on a money basis! It is unnecessary to say that the application of Mr Hopkins was denied. Subsequently he applied to the Committee for relief.

Judge D. O. Shattuck of the superior court, a pure and upright man, whose integrity neither party called in question, thus sums up a lengthy argument in the case of Judge Terry, published in the journals of June 27th:

"If my reasoning is correct it has demonstrated two things: first, that in the case of the death of Hopkins, which God in his mercy prevent, Judge Terry is not guilty of murder, for the blow was not struck feloniously and with malice aforethought; secondly, that we are in a state of war, that there was a legal armed force organized against the Committee, that a portion of that legal armed organization, with which Judge Terry was at that time lawfully acting, was set upon by a squad of the forces of the Committee, and in that collision of forces the blow was struck, and therefore if death, it is considered as the fate of war, and not individual crime."

This is by far the fairest opinion delivered in the extenuation of Terry's guilt. Judge Shattuck was an able jurist, and honest in every word he said, yet it seems to me he begs the whole question. The Vigilance Committee was organized for the very purpose of setting aside such legal technicalities as "feloniously struck" and "malice aforethought." Perhaps Terry did not mean to kill Hopkins. It is difficult to say what he meant to do. But without a legal opinion from a learned judge, any of us may know that if Judge Terry had been exceedingly anxious to save Hopkins' life he would have kept that knife out of his neck. It was for this, I say, that the Vigilance Committee organized, to prevent men of violence from shielding themselves under the broad covering of legal technicalities.

As for the other excuse, that the country was in a state of war, in the ordinary meaning of the term, it was not true. In one sense there was war between the community and crime, there was no war between the people and the state. The proposition is a fallacy on the face of it. Johnson's proclamation, unless it were technically in accordance with such legal shifts and subterfuges as this Committee do not recognize, does not make war. If the authorities would attend to their own affairs, and let the people in their sover-

eign authority exercise their sovereign will as they had the right to do in their work of exterminating crime, there would have been no trouble. The people were the master, and not Johnson. The only logical deduction from Judge Shattuck's line of argument would be that the people of San Francisco—and indeed you may say of California, for nine tenths of the people of the state were on that side—had declared war against themselves, were in open revolt against themselves, and were fighting themselves, which reasoning is simply *reductio ad absurdum*. It would seem that a jurist can no more follow a train of reasoning without marshalling to his support statutes, forms, and constitutions, than a religionist can let fly his thoughts unhampered by creeds and written revelations.

Judge Shattuck's paper on the whole is a singular document. Being lengthy, and the salient points already given, it is not necessary here to reproduce it. It was only one out of hundreds by able jurists and writers who took up their pens as champions for one side or the other. This of Judge Shattuck's commanded more attention than almost any other, not that it was the most able, but from the general respect entertained for the author. Judge Shattuck was known to be an honest man, was known to be incapable of uttering other than his candid views, and was known to be no hot-headed partisan. His object was to throw oil upon the troubled waters, to calm the public mind, and to save Terry's life in case Hopkins died. And so far its tone was most excellent, though his law and logic would not stand the test of close scrutiny. His assumption of war and the meeting of Hopkins and Terry as two combatants was simply ridiculous. Hopkins was told to arrest a man, and not to kill one.

At the Saturday evening session, June 28th, Mr Dempster made the following motion, which was carried: "That the secretary be and is hereby in-

structed to detail five members from this Committee each night, beginning with the first names entered upon our roll and continuing regularly as there written, to remain in our quarters all night, and that the members so named if present shall remain themselves or procure substitutes. Also, that the secretary shall put upon the bulletin-board the names of members to be thus detailed as far in advance as possible. Also, that any member who shall neglect to remain all night when his turn comes, without seeing that a substitute takes his place, shall be considered guilty of gross neglect, and subject to such punishment as may be awarded hereafter." W. T. Coleman, C. J. Dempster, A. L. Tubbs, M. F. Truett, and N. O. Arrington were detailed for duty at the Committee rooms, under this order, the first night.

The 28th of June the *Herald* comments on the affairs of the day before in its usual strain. "The city is still in a state of siege," it says. "Fort Gunnybags still frowns defiance upon the liberty of the people. Our streets are daily and nightly filled with armed men, who, associated with mercenary troops and condemned muskets, cast a gloomy shadow upon the light of liberty. The cap of Gessler has been erected on a Vigilance Committee pole, and we must all bow down to it and shout lustily, 'Long live the Inquisition.' Business has been to a great extent paralyzed; the social relations have been severed; there is no good feeling extant; the worst passions have been aroused and the masses see nothing but red."

What will be done with Judge Terry? was now the absorbing question. Day after day the law and order journals published columns of affidavits which made the sanguinary jurist a much abused man and a hero. He was not only innocent of crime, but he was to be honored for his action. In defence of the law he drew his dagger; in defence of himself he plunged it into an assailant. Public opinion, however, was little influenced by all this, and the popular will seemed

to demand that even-handed justice should be dealt this man equally with his less intelligent tools.

The friends of Judge Terry did everything in their power to procure his release. Howard importuned Coleman and stumped the interior, the *Herald* and the *Sun* editors raved like men in delirium, Johnson threatened to pour the forces of the federal government into San Francisco Bay inside of ninety days, and the lawyer outlaws would pluralize each life of the whole eight thousand that the penalty of every crime in the long catalogue which they had made might be visited upon them.

CHAPTER XXV.

THE TRIAL.

He hath resisted law,
And therefore law shall scorn him further trial
Than the severity of the public power,
Which he so sets at naught.

Coriolanus.

It was a severe ordeal for prisoners when brought before the grim tribunal and put on trial for their lives. Trepidation invariably broke them down. Far more imposing than any ordinary court of justice it struck terror into the hearts of the guilty. The accused brought thither for trial could but feel himself cut off from all those means of escape offered him by kind indulgent law. Terry, master of court hirelings and court machinery, could not but here feel himself in the presence of his masters. He was overpowered by a sense of the power in whose presence he stood. It was so different from anything he had ever before seen or thought of. It was an awful reality. These men were now no damned mob, but the undamned power of the Almighty upon those who fell into their hands, and a certain respect for them arose in his mind. Bravado was of no avail here. He was humble everywhere, and in his cell he wept a few proud tears. When brought within the Executive chamber by the sergeant-at-arms, he faltered for a moment only. All eyes were on him, and they seemed all-searching like those of omniscience. He felt his soul laid bare as on the judgment-day. But quickly recovering himself he approached his seat with a firm step and dignified mien, and ad-

dressing the president said: "I recognize your authority, and am ready to proceed with the trial."

For all that Terry came to his trial in a very nervous state of mind. He could not but feel, as he would say, that he had been indiscreet. He had damaged the cause he sought to aid, had given his enemies a victory, and had placed his person in their power. But more than this, he now was made to fear those whom before he had only hated; he was now made to feel the strength of those whom before he had despised. Caged by the mob, as he termed the populace who surrounded the Blues' armory, he burst into tears; brought before a tribunal of just men he was cowed. The lion's heart of the learned judge sank within him; as viewed by him, these men of vigilance were desperate characters, with whom hanging was easy, while the law was no impediment to any course their fancy might dictate. At first he seemed suspicious that he would not be fairly dealt with. His mind could scarcely conceive of a company of money-makers actuated by love of right alone, or a company of pork-sellers inspired by a love of justice which lifted them above the reach of any other impulse or appetite.

But as the trial progressed, he found that they could be fair; that in sitting in judgment upon their archenemy their love of justice was even then greater than the triumph of revenge. His keen mind sharpened by the sense of danger very soon saw the fairness of the rulings in which the prisoner was given the benefit of every doubt and the universal desire to gain the simple truth unbiassed by party or circumstance. All the witnesses he could name were sent for from different parts of the state, the expenses of some of whom were paid by the Committee. From the beginning to the end he had the benefit of his experience in conducting his case, and at the conclusion of the testimony pleaded his own case and made a written statement. Nothing could have been fairer.

From the first he saw that the Committee were in earnest, and as a rule his conduct was respectful. Once or twice the tribunal found it necessary to call him to order.

On the 23d of June Judge Terry wrote the Committee appealing for delay in his trial, which appeal the Committee refused to consider. They also received a letter from Ashe requesting permission to publish a card, the tendency of which would be to place his friend Terry right before the community; whereupon Mr Smiley moved that the writer "be informed that any publication by him in relation to the acts of the Committee of Vigilance would be esteemed a forfeiture of his parole."

Miers F. Truett was appointed counsel for Terry, with permission of free access to his cell, and power to summon witnesses. It was then ordered that the trial be postponed till Wednesday, the 25th, at one o'clock, at which time it was again postponed, and so continued for two days more. Meanwhile Mr Thomas J. L. Smiley, who had been appointed attorney for the prosecution, was busy in collecting evidence. No member, even of the executive committee, was permitted to see or to speak to the prisoner privately except by special permission.

Specific charges were then preferred. First, David S. Terry was charged with resisting by violence the officers of the Committee of Vigilance while in the discharge of duty. Second, with committing an assault with a deadly weapon with intent to kill Sterling A. Hopkins, a police officer of the Committee of Vigilance on the 21st day of June, 1856. Third, with divers breaches of the peace and attack on citizens—on Mr Evans of Stockton; on Mr Broadhouse while in the court-house at Stockton; on Mr King, at the charter election in Stockton; on J. H. Purdy in the city of San Francisco, in resisting a writ of habeas corpus, by which William Roach escaped from the custody of the law, and the infant heirs of the San-

chez family were defrauded of their rights. These all in the year 1853.

In none of the cases had there been trial or punishment. Offences enumerated in the third charge were regarded by the Executive as secondary in importance to the assault on Hopkins; but the Committee considered they had the right to take cognizance of all recent offences committed by their prisoner, particularly of his resistance of the writ of habeas corpus for fraudulent purposes, when he had raised such a hue and cry over the alleged resistance by the Committee, for praiseworthy purposes, of a writ issued by him.

On Friday the 27th, at a quarter to eleven, the prisoner David S. Terry, charged with the murder or attempted murder of Sterling A. Hopkins, was brought before the Executive sitting as a jury, President Coleman in the chair, and placed on trial. The following order was pursued: First, statements of prosecution; second, evidence for prosecution; third, statements of defence; fourth, evidence for defence; fifth, speech of counsel for defence; sixth, speech of prisoner if he desire it; seventh, closing speech of prosecuting attorney. Mr Smiley read the charge, and the prisoner was then asked if he was guilty or not guilty. The prisoner refused to plead until assured that there was no outside pressure bearing upon the Committee. Upon receiving such assurance he said, "I am not guilty of any crime whatever." At ten minutes before eleven Mr Smiley began his opening address, closing at five minutes past eleven, concluding it in these words: "Gentlemen of the Committee, in trying Judge Terry you try yourselves; in sitting here in judgment on his acts, you sit in judgment on your own; if he be innocent you are guilty, if he escape punishment you should be punished."

The defence was based chiefly on an assured right as a sworn officer of the law to resist the acts of a lawless body. In the matter of Hopkins he claimed to have acted in self-defence.

Testimony was then taken, forty witnesses being examined for the prosecution and about eighty for the defence. It was ordered that the evidence of Hopkins under oath should be taken in writing by Doctor Cole and a clerk, to be obtained by a series of questions mutually agreed upon by the respective counsel for the prosecution and the defence, and that such testimony attested by Doctor Cole should be received as evidence. Orders were issued to refuse all persons, of whatever class, admittance to the presence of Hopkins.

The trial was now continued from day to day, with sessions morning and evening, from thirty to forty members of the Executive being in attendance.

While Terry's trial was going on in the Committee rooms the law and order journals were publishing all the evidence they could collect in his favor and inditing editorials in his behalf.

Singular was their line of argument. Terry as supreme justice was in the path of duty in defending Maloney from arrest, said they. In answer they were told that the office of judge was to try criminals, not to prosecute or defend them, and Terry, as the member of the supreme state tribunal who would probably be called upon to decide those legal issues which would grow out of the conflict, should have remained at home, kept his mind in condition to weigh out justice evenly to both parties, and not have descended from the bench and mingled in the fray like any layman. Terry acted purely in self-defence, they said. I hardly see how this could be when Hopkins was not seeking Terry, when Hopkins was striving to avoid Terry and lay hold upon another. And when Terry levelled his gun at him Hopkins only grasped it and made no effort to kill his assailant. It might be regarded as equivalent to self-defence, in the light of protecting or defending a friend in danger, a friend being more to one than one's self.

It was a long, laborious business, this trial, weari-

some in its details and unsatisfactory in its results. "Terry was an unexpected, unwelcome, and undesired tenant of our quarters," remarks Coleman, "thrust upon us with all the weight of his office, all the embarrassment of his case which Hopkins' protracted illness and life gave it, all the renewed and concentrated opposition of our antagonists, revived and increased by the addition of many of his personal friends, and by his official position."

The general verdict of the community was, if Hopkins died Terry should be hanged, if Hopkins lived Terry should be banished.

In Terry the Vigilance Committee had their largest elephant, unwieldy, expensive, and in every way undesirable. As long as Hopkins lay at the point of death, or in a critical condition, their way was comparatively clear; but when, as the trial dragged its weary length, he began to recover, and in time was up and about the streets, now more than ever were the Executive nonplussed. They had hoped to disband soon and to rest from their responsibilities; they had hoped soon to be able to devote their days to their business and their nights to their families; but upon them in an evil moment had dropped this great and unexpected burden, which complicated their position and increased their labors and liabilities fourfold.

During this period Terry and his friends were very humble. To deliver him from durance they would promise anything; he should resign his position, leave the state, and give no more trouble. The wives of members of the executive committee were called upon by ladies, evidently acting in concert, who, under cover of friendly visit, would enlarge on the equity of Terry's case. Social efforts of every kind were repeatedly undertaken to work on the minds of the Executive who were his judges. "Day after day," says Mr Dempster, "gentlemen used to come into my office, as they went to those of others, some of whom were friends, some mere passing acquaintances, and

even others whom I then met for the first time, and either at once began to speak of Terry or by degrees led the conversation to that point. I have never known or heard of a case where a man's friends worked so hard in his behalf. My most intimate associate at the time, a merchant whose place of business was next my own, a man in whose integrity and desire for the public good I had implicit faith, brought several gentlemen to see me asking a discussion on the subject. And they presented their views very forcibly. I listened with attention; but becoming wearied by the increasing efforts to argue the matter out of court, as it were—for I considered it was not the proper place—I was determined to put an end, at once and forever, to these repeated concerted attempts. So that finally I said to them, that during my whole life I had been an admirer of strictly impartial justice, that I believed that no human being existed who did not admire this, to my mind, the most revered attribute of the deity. I had joined the Vigilance Committee from a firm conviction that even-handed justice should be meted out to all men. We had punished weak men of little power and without friends, and the same justice should be done to Judge Terry, the more so because of his powerful friends and almost universal influence. I concluded by saying that should Hopkins die, and were every other member of the Vigilance Committee to fail to do justice, I would myself inflict upon Judge Terry the penalty which I considered would be his due, and this even though I knew that such a moment would also be my last. After that I was troubled no more."

"Every effort, every device, artifice, pretext, persuasion, and power of his friends, old and new," says Coleman, "was brought to bear at once on every separate individual member of the Committee, on every part of its organization that they thought could be reached by influence social, moral, religious, political, public, private, sectional, general, and every other

kind; and when they found the Executive firm and unwavering, the delegates even more so, because not inclined, or feeling impelled to show the courtesy, indulgence, and forbearance which the former body did, where indulgence was expected, the leaders in this movement then tried to sow dissension and to create divisions in every part of the organization that they could, and it may well be conceived how much trouble could thus be given to us by strong, zealous, numerous influential people who under the circumstances deemed any expedient, any policy, any tactics or effort justifiable."

"It was a spar on his part for time," as Smiley puts it, "and for any influence on earth that could be brought to bear, a spar on his part in the beginning for every concession to save his life, especially while Hopkins lay at the point of death." All the ordinary facts which might have been taken for granted were vigorously fought. The first attempt to arrest Maloney in Terry's presence; Terry's running up Kearny street to Jackson, and to Bartlett's alley; Hopkins' seizure of his weapon and Terry's stabbing him—the whole of these details were fought inch by inch; when all the time the truth was clearly apparent that Terry left his judicial seat at Sacramento and came to San Francisco for the express purpose of precipitating a bloody issue in a local quarrel, and mingling in a street affray, to shield a tool of his party he interposed himself between him and Hopkins; the latter then endeavored to thrust Terry aside, and Terry stabbed him.

"That the cause for the organization of the Vigilance Committee was just and sufficient," says the Nevada *Journal* of the 4th of July, "the popular voice of the people has decided. That Casey and Cora richly deserved their ignoble fate, few have the hardihood to deny. Had the Vigilance Committee accomplished but this act of retributive justice the whole state would have applauded the deed, as the

whole state did. Few would have been found to deplore, and few to denounce the precedent set for coming time; the masses, though they might regret the necessity for setting at naught the forms of law, would have rejoiced that vice by some process, illicit though it might be, had at last found its punishment.

"The act of banishing a score of individuals at one time is more questionable, because the crimes of each are not so apparent to the people, and because by condemning so many there was a reasonable possibility that one innocent man might suffer with the guilty. Still the notorious reputation of the expatriated and their associations, from which their characters became established, was convincing proof to every one not wed irrevocably to law however much violated, or order though a misnomer for anarchy, that they were unfit to mingle in a community whose moral sense they had outraged, and whose laws they had defied. Though the banishment of these men was, as we have said before, a more questionable act than the execution of the murderers, whose guilt was open and deniable by none, the people were glad that the state was purged of such dishonorable characters.

"Again when he who should wear ermine unsoiled committed the *faux pas* of folly and indiscretion of going to San Francisco, leaving the seat of justice to mingle and take part in grave proceedings, upon which he would doubtless be called to pass judgment in his official capacity; and when, worse than all, in attempting to perform impossibilities he sheathed a dagger in the flesh of an officer performing duties in accordance with popular authority, and was taken into custody by the same authority, public sentiment condemned the judge and demanded justice from its acknowledged dispensers. An *ex parte* statement of the unfortunate affair flashed across the wires, and the mountains echoed back the voice of the excited multitude in San Francisco, for redress and retribution. But another and counter statement has gone

forth which is entitled to some consideration. Keeping in view the excitement of the times, both versions of the story should, perhaps, be taken with allowance, for the mediums through which the two parties saw the tragedy were liable to distortion and coloring. At all events the evidence which has been brought to light is conflicting and unsatisfactory. The Vigilance Committee arose to vindicate the majesty of violated law, and to ensure its future observance, and we demand of any gentleman versed in the law of evidence, if enough has been furnished the public to convict David S. Terry by the law, in whose sacred defence the Vigilance Committee stand, of a capital crime. It is far from us to plead the high official station of the prisoner as an interposer for mercy in his behalf. It cannot extenuate a crime. All the people ask is impartial justice, meted out inflexibly alike to the high and the low. They do not desire nor will they sanction the enforcement of the bloody code of Draco. The time for *lex talionis* has passed away. If the imprisoned officer had done a deed worthy of death in the eyes of the enlightened nations, let him suffer like any malefactor. But the tumultuous murmurings and demands without, like the winds of yore around the cave of Æolus, should not swerve the executive committee one hair from the line of justice as defined by the statutes whose purity and efficiency they are constituted to restore."

The fourth of July passed quietly. In the enjoyment of their national anniversary the citizens of San Francisco felt that they were indeed free and independent; felt that their city was free from the misrule of political demagogues, was purged of moral disease which had so lately threatened death, and that they were men, fit descendants of those sires of the great Revolution who eighty years before had in like manner struggled for the right and conquered a peace. There was a desire on the part of some for a grand military display by the Vigilance Committee, but

with their usual good sense and moderation the Executive objected. Theirs was no organization for vain or triumphant ostentation, but for solemn duty, which once performed they would gladly retire, and rest for their reward in the consciousness of their rectitude rather than in plaudits and public praise.

Several persons now attempted an adjustment of the difficulties between the governor and the Committee, and Terry was asked to lend his aid by resigning. When it was thought Hopkins would die Terry would gladly have resigned, and have left the state, had he been permitted to do so, but now that Hopkins was improving Terry stoutly swore that he would never leave the Committee rooms unless as justice of the supreme court.

Overtures were made by deputations of citizens, to which courteous attention was given. In one of these, headed by Judge Munson, negotiations proceeded so far as to protocol the adjustment of difficulties upon the following basis: The Committee should consider the objects for which they had organized as accomplished, first, when the two justices of the supreme court, Murray and Terry, should have resigned, and have departed the state; secondly, when all the officers of San Francisco county should have vacated their positions; thirdly, when all the prisoners in the possession of the Committee, and such characters as they desired to expel, had left the state never to return; and, fourthly, it should not be deemed a breach of faith, but a duty, to enforce sentence on any banished criminal who should return. These terms were not accepted; indeed, they were scarcely practicable, and were only another way of replying to the numerous overtures made to them in effect, that it was impossible for them to do otherwise than to conclude their work as originally determined.

Upon the failure of all efforts at reconciliation threats of rescue were renewed, which tended only to increased vigilance on the part of the Committee. The

night before his trial began Terry was removed to another cell, and the password was changed.

The 10th of July the condition of Mr Hopkins was more critical. Says the *Bulletin* next day: "The friends of the supreme judge who have counselled him to the unwise, arrogant course he has taken during the past few days may now cease their self-gratulating utterances, and will probably recede from the insolent attitude they have taken. We have no wish to renew popular excitement on this subject; but it is our duty to repeat what we have heretofore said, that if Hopkins dies Terry must meet the" consequences, whatever they may be.

There were all sorts of opinions entertained and expressed, both within and without the Committee. Some believed him as much to blame as if his knife had pierced the police captain's heart, though evidently it was not the intention of the judge to go quite so far. Others did not censure him for cutting Hopkins, but for stepping from his judicial bench to interfere in purely local affairs. Others blamed him not at all, taking up the old line of argument that it was done in self-defence, and even in the line of duty as a peace-officer.

Loud calls were now made by the people for the governor to resign, and also to withdraw his proclamation. If ever the necessity existed for issuing it, that necessity had long since passed. The popular party had achieved a signal triumph; the army of the opposition had melted into air. The city was quiet and orderly, the functions of government were untrammelled by insurrectionists, if any such ever existed. "No one anticipates civil war now," they argued. "Where then is the necessity for the proclamation and the action taken under it? Have not facts clearly shown that both were unnecessary, both fruitless, save in increasing the debt of the state? Why, then, is not that absurd manifesto withdrawn? Why will the executive persist in maintaining his

shameful position? Let him retrace his steps, let him withdraw his proclamation, let him manifest his gratitude that his folly has not occasioned civil war, and for the rest of his term of office, if he will persist in retaining office contrary to the wish of those who elected him, let him so conduct himself as in a measure to redeem the reputation he once enjoyed."

A grand mass meeting was held in front of Montgomery block the evening of July 13th, for the purpose of calling forth public sentiment as to the necessity of an immediate resignation of all the then existing city and county officers. These officers were illegally elected, the people said, many of them were guilty of infamous practices, and none of them enjoyed the confidence of the community. The executive committee of vigilance had instituted an investigation into the affairs of the respective municipal offices, and a lengthy report of the result appeared in the journals of the day.

They examined the financial system of the municipality, and ascertained that the city had been extravagant, living far beyond its means. The county was burdened with a debt of half a million of dollars, and warrants depreciated to less than half their par value. This was chargeable to the board of supervisors. They found that the county had been grossly swindled; corruption was rank and everywhere existent in and about the city hall.

It was therefore resolved that written requests to resign should be directed to Judge Freelon, Mayor Van Ness, Sheriff Scannell, District Attorney Byrne, County Clerk Hayes, Recorder Kohler, Treasurer Woods, Assessor Stillman, Surveyor Gardner, Coroner Kent, School Superintendent Pelton, and Justices Ryan, Chamberlain, and Castree. This was done; and the answers from the officials were in almost every instance a positive refusal to resign. An adjourned meeting hinted at a resort to force to drive them from office. "Let the Vigilance Committee shut the doors of the city hall and take the keys,"

suggested one. "We are eight thousand devoted men; we can keep the old rookery hermetically sealed, and we will do it!" Popular sovereignty and the people as the source of all power were the doctrines held by that assemblage; and the refusal of the officials to resign in obedience to the popular demand, which resignation in their opinion would have had a powerful tendency toward the establishment of tranquillity, was deplored.

I cannot but regard this action as injudicious and hurtful to the popular cause. It was hardly to be supposed that these officials would resign; to do so would be a tacit acknowledgment on their part of the justice of the popular demand. And to take a step which was sure to result in humiliating defeat could only bring into contempt the actors and weaken their cause.

Although there were many members of the Vigilance Committee prominent in this demonstration, it was not a Vigilance Committee movement. It bears no impress of that sound judgment, that calm and dignified discrimination, and that swift and terrible action when once the determination to act was formed, that characterized all the doings of the executive committee. Far too wise were they to risk prestige in making demands where they had not the power to enforce obedience.

The never failing bugbear of habeas corpus was as a matter of course resorted to. In almost every instance the Committee was informed that a writ was to be served before the officer came with it. For example, the record of 21st July states that "Mr George R. Ward made a verbal statement of a conversation had with a gentleman of this city in relation to a writ of habeas corpus which he said would be issued this evening." The chair then appointed Messrs Dempster and Farwell a committee to obtain legal advice in relation to the writ of habeas corpus. A committee of three, Dows, Burns, and Goddard, was then

appointed to take proper measures to secrete the prisoner Terry, in case the service of a writ of habeas corpus should be attempted.

In a letter to B. W. Leigh dated Sacramento, July 16th, 1856, General Howard discloses the plan of the law and order faction concerning Terry. "I agree with you," he says, "that the safest course is to apply for a writ of *habeas corpus ad testificandum* for Terry. He will be a necessary witness in the case of Durkee, as he knows all about the requisition by the governor." Durkee had been arrested for piracy, a full account of which will be given hereafter. The cunning Howard! Has he forgotten the "non-come-at-ibus" return upon the writ for Maloney, who also was wanted for a witness in the Durkee case? Here is the story:

"My friend," said a Paul Pry of the gubernatorial order to a member of the Vigilance Committee one day, "I do not wish to be inquisitive, nor would I for the world get you into trouble, but I confess to a strong desire to know how you stow away prisoners so that when a habeas corpus comes no shadow of them can be found."

"Well," replied the vigilant, "I hardly think I should tell you; but will you promise secrecy?"

"Most profound."

"Know then that when the Executive scent a service they raise the false bottom and side slide of the patent ballot-box, clap these men in one after another, and make a return on the writ of habeas corpus, of non-come-at-ibus in ballot-box-ibus!"

CHAPTER XXVI.

JOHNSON AND HIS GENTLE GENERAL.

Es ist nichts schrecklicher als eine thätige Unwissenheit.
Goethe.

EARLY in July Governor Johnson so far conquered his pride as to make overtures of reconciliation to the executive committee, although the manner of it was not as manly as might have been. It happened in this wise: His request to General Wool for United States aid had been refused; his proclamation had been treated with indifference by some and with contempt by others; his chief of militia had been outgeneralled, his force ignominiously defeated, stripped of their arms, and made prisoners without having struck a blow; his friend and counsellor was in the hands of the Committee, and he himself was powerless, governor by sufferance only, and his name a reproach and byword throughout the state. The position was by no means a pleasant one; but he deserved little sympathy, for it was petty pride that caused him to strike such an attitude, and sullen obstinacy that prevented him from retiring from it. He was actuated by no lofty motive, cared little for the lives and property of the citizens, and still less for the welfare of the state.

In the editorial of the Sacramento *Union's* issue of June 27th appeared the following comment on Governor Johnson's course: "Finding, after a trial of nearly a month, that the intelligent people of the state, including nineteen twentieths of his personal

and political friends, have taken a different view of his official duty upon the point of issuing the proclamation, it seems to us that he might revoke that document with the approval of nine tenths of the people of the state, and without any violation of conscientious views of duty, or loss of official or personal character. Had that document been revoked two weeks ago, we are confident that J. Neely Johnson would have immediately commanded again the respect and full confidence of the people of the state. A proper course now may produce a like result. But that course must be divested entirely of military threats and displays, or it cannot prove acceptable to the people. By a fair, just, and magnanimous policy on both sides this San Francisco difficulty may be adjusted honorably and satisfactorily to all parties in two days. To effect this, however, there must be concessions on each side. There must be no stubborn adherence to individual opinions, no further war upon abstractions and technicalities, no warring of prejudices and passions around the board. A few men with cool heads can settle the difficulty in a day."

A lengthy editorial upon the subject of conciliation appeared in the same journal on the following morning, in which the governor was urged to take immediate steps for settling the difficulty amicably. "Our desire to have this unnatural controversy closed by compromise," says the editor, "does not arise from any anxiety for the Vigilance Committee. They are too strongly organized in San Francisco, and too firmly sustained by the great heart of the people, to be disturbed by any force that can be brought against them from any quarter so long as they keep right on their side. Our anxiety is for the state officers themselves. A fierce conflict between them and the people would seal their fate as officers; and should the lives of a half-dozen good men be sacrificed by their orders, the state would soon be found too small to hold them. But all danger of a hostile collision can be

and should be placed beyond human contingency by the act of the executive. Were we in his position we should not hesitate to visit San Francisco, and say plainly to those citizens what we were willing to do to produce again peace and harmony. We should expect to make honorable and magnanimous concessions to the spirit of liberty which has exhibited itself in San Francisco, and we should expect to be met in the same catholic and generous spirit by the Committee. We should propose to revoke the military order to General Sherman, to modify by another document the military and insurrection portion of the proclamation, and, upon such conditions as might be agreed upon, declare a general amnesty for the past acts of the Committee."

Following up the subject with the same earnestness on Monday, the 30th of June, the same writer continues and thus exhorts the powers on Sacramento street:

"The Vigilance Committee are in a position of such strength, possess power undisputed in San Francisco, that they are in a situation to offer generous concessions and liberal terms to the state, without subjecting themselves to the suspicion of being influenced by their fears, or by any motive save that of giving peace and quiet to the community which they have purified morally by their acts. While the least uncertainty existed as to their position, they exhibited consummate wisdom in every movement. Possessed now of power almost unlimited let them have a care that it does not so intoxicate them as to lead to acts which will be pronounced blunders. Their power was voluntarily conferred in a day; it may voluntarily be withdrawn in a night. If Hopkins fortunately lives, the case of Judge Terry can be disposed of in accordance with the demands of justice, and without embarrassing the Committee. If death follows the wound inflicted by the judge, to save his life will be difficult if not impossible. Hence the reason why we urged the executive to go to the bay on Saturday and close the matter at once and before a fatal termination could follow in the case of Hopkins. But some of his friends thought he had better not go. It was suggested that so great was the excitement that he might be uncourteously treated in the streets, an idea that never entered our mind. We do not believe that the governor would have been subjected to insult; our opinion of the citizens of San Francisco leads us to think otherwise."

Balancing thus the pride and the interest of both sides with no little skill and calmness, this writer

urges the governor to advance, speaks of the impossibility of any other method of settling the difficulty, touches upon the uncertain tenure by which he and his party hold offices, the jeopardy of his friend's life, and finally pricks him on with a gentle intimation of cowardice, while on the other hand he pats the Vigilance Committee on the back, reminds them of the uncertainty of human events, and advises them to treat the governor kindly. It was well intended, well executed, but it would not work; Johnson lacked the manliness to be governed by such advice, yet it could but influence him. He saw the truth of it, yet he had not the courage to follow it. Some action, however, he deemed necessary, so he adopted a middle course, usually the covert of weak and vacillating minds. Calling to him his father-in-law, Colonel James C. Zabriskie, he requested him to go down to San Francisco and endeavor if possible to adjust the difficulties between the Vigilance Committee and the authorities. He authorized him to make the following proposal, namely, that if the Committee would deliver Terry to the courts for trial, place in the governor's possession the state arms, and disband, he, Johnson, would advise the authorities of San Francisco not to prosecute any member of the Vigilance Committee for offences alleged to have been committed, and should any be thus convicted he would grant them unconditional pardon. The utmost secrecy was to be maintained, as in case of refusal on the part of the Committee to comply with the governor's proposal, the governor would not have it appear that any advance toward a reconciliation had been made by him. This was the 2d of July. Colonel Zabriskie accepted the commission and associated with him James Allen and C. B. Zabriskie of San Francisco, and the game opened. The high commission first addressed a letter to Judge Terry, dated International Hotel, San Francisco, July 3d, 1856, in which they made known their authority from the

governor to treat with the Committee, and assuring him that he could materially contribute to their success.

Alluding to the communication of Mrs Terry to the public in which she expresses the belief that if a majority of the people desired her husband's resignation he would grant it, they took it for granted that he approved of that proposition, and asked in what form such an expression of popular will would be acceptable to him. It will easily be perceived that Mrs Terry had been instigated to the expression of such belief either by her husband or his friends in order to keep the subject agitated and call out proposals—mostly, it would seem, for the gratification of spurning them. Terry had no intention of resigning. He well knew that it would make little or no difference with the Committee in the disposition of his case. It was hanging or exile the Committee were thinking of, either of which would terminate his career as associate justice without any action on his part. Yet the opportunity of a refusal to resign was an intense satisfaction to him. Nor could the insinuation of Mrs Terry do any harm; for in the first place, he, the judge, might disclaim any knowledge or authorization of it, and in the next place he well knew that any such expression of public opinion as she had alluded to was simply impracticable. It was all done for effect. And the bait took. In answer to the nuncios' question, How can the wish of the people be ascertained in relation to your commission? Terry evasively replied that being deprived of the privilege of seeing his friends he was not prepared to indicate any manner in which the sense of the people could be taken. If some of his friends might be permitted to see him, doubtless a satisfactory determination might be arrived at. "Upon one thing I am, however, resolved," he says in conclusion, "that I will not resign my office while held in durance. If I leave this building alive I leave it as justice of the

supreme court of the state, and no power on earth shall change the resolution."

The next thing for the ambassadors to do was to find the friend that Judge Terry desired to see whom the committee would admit to his presence. Mr A. P. Crittenden, a man of rare ability, united with mild manners and a truly chivalrous sense of honor, was finally selected, whom the Committee granted access to Terry's cell. The correspondence thus far was placed in Mr Crittenden's hands and the utmost secrecy enjoined. Crittenden then held an interview with Terry and shortly returned Zabriskie the following reply to the question, how the will of the people was to be ascertained: "Let the offences charged against me," said Terry, "be submitted to a public trial before an impartial jury, as speedily as may be. If I am found guilty of any offence whatever I will at once resign." As I have before remarked, there would be little danger to the high official in this, as Judge Terry's friends were the court party. Once in their hands, with twelve men of their selection on the jury bench, and there would be little doubt how the case would go. This was to leave it to the people!

As a matter of course the Executive would listen to no proposal which this commission was enabled to make, either from Johnson or Terry, and the governor's overtures resulted in failure. But the affair did not end here. Colonel Zabriskie was sensitively anxious to have the whole matter kept quiet. Judge Terry, on the other hand, would rather it were known that he had been asked to resign and would not. At Judge Terry's request, the written reply to the letter of Allen and the Zabriskies which was given Mr Crittenden appeared in the *Sun* of the 8th of July. This made the commissioners angry, and a newspaper controversy between them and Mr Crittenden followed. Worse was yet to come. The governor, seeing that his commissioners had failed, that his over-

tures were made public, and his friends quarrelling among themselves as to who was in fault for the publicity of the proceedings, determined so far as he was concerned to cut loose from the complication by ignoring the whole matter. Governor Johnson now came out in the public journals flatly denying ever having authorized Allen and the Zabriskies so to treat. This naturally made the nuncios very indignant. To Johnson's face they denounced his dastardly conduct and made the most solemn asseverations as to the truth of their statements. And the people believed them.

I will conclude this incident, significant as it is of the character of the law and order leaders, with the following comment of the *California American:* "We have read with astonishment the reply of Governor Johnson to the explanation of Colonel Zabriskie and General Allen. After having conferred the authority claimed by those gentlemen upon two distinct committees or agencies previously appointed by the governor, he now repudiates the authority of like character claimed by those gentlemen and which no honest man can doubt the governor conferred upon them."

The Nevada *Journal* of the 18th of July gives the following:

"A QUESTION OF VERACITY.—The papers below contain a card from Colonel J. C. Zabriskie, the facts of which are corroborated by a statement of General James Allen, in which Governor Johnson is shown up in no very enviable light. If there is no mistake or misunderstanding between the governor and the gentlemen before mentioned, the case is an awkward one for the executive. The facts in brief are substantially these: Colonel Zabriskie and General Allen were empowered by the governor, according to their statement, which is entitled to every credence, to proceed to San Francisco and treat with the Vigilance Committee for the liberation of Terry, and settle as fully as possible the existing difficulties between the people and the authorities. The basis on which the negotiations were to be conducted was, the Committee should deliver Terry over to the civil authorities, return the arms of the state, and disband. In consideration of which the governor would recommend the passage of a general amnesty act by the next legislature, and use his influence and the power in him vested to prevent the punishment of any member of the Vigilance Committee for acts committed under the authority of such Committee.

"Messrs Zabriskie and Allen proceeded to San Francisco on their mission, but were unsuccessful in consequence of the intractable disposition of Terry himself.

"The *Sun* published the authority under which Zabriskie and Allen were acting, which induced the editor of the *Express*, published at Marysville, to personally interrogate the governor, who was on a visit to that place, as to whether the two gentlemen named were acting on their own responsibility or his. The reply was, they were acting on their own. About the same time the governor addressed a note to Zabriskie and Allen, demanding the contradiction of the report in circulation, that he had vested them with powers to settle the difficulties in San Francisco. This called out a rejoinder, in which it was explicitly and emphatically declared that the two gentlemen were empowered by the governor to settle the difficulties named. Another note was addressed to the governor by General Allen and Colonel Zabriskie, demanding that he should put a stop to the dirty innuendoes in circulation concerning them, by publishing forthwith an explicit statement of the power he conferred upon them as his agents, and threatened that unless he did so, they would. To this, as well as to several previous notes, Governor Johnson made no reply.

"In justice to himself Colonel Zabriskie has been compelled to make the facts public, though the step is a painful one to the man and the father. The governor repudiates the authority he conferred upon his agents, or rather denies having invested them with any power to treat with the Vigilance Committee at all. Colonel Zabriskie and General Allen are willing to qualify in the most solemn manner to the truth of their statements, and thus the matter, at this writing, stands. The governor had made himself sufficiently ridiculous before, but the latest developments make him perfectly contemptible."

No true history of this movement can long leave hidden so important a personage as the governor's gentle general, Volney. Before he danced in full armor as one of the Salii priests to the governor's Mars, Howard had borne the reputation of a talented lawyer and a good citizen. More active in this instance than Sherman, he was less efficient, indeed harmless, and take him all in all, he was a man after the governor's own heart. He now seemed determined, if it lay in his power, to drive the issue to a swift determination. He would stir up the cities of the interior, if possible, to subjugate the bay city. He would save Terry's life and heal Johnson's wounded honor. He would save the state, save the union, save humanity. This would surely be commendable action, which the people would praise and posterity apotheosize. After the collision of Satur-

day in which he endeavored unsuccessfully to play a conspicuous part, he left by way of Napa for Sacramento, where he arrived Monday night. Immediately posters informed the citizens of Sacramento that they would be addressed by General Howard at half-past eight in front of the Orleans Hotel. At the appointed hour a large crowd collected about the place.

Howard mounted the stand, and, so far as the continued interruptions would permit him, made a most inflammatory speech. "Fellow-citizens," he said, "we are in the midst of a revolution, we are in the midst of a conflict, and we must never cease the struggle in behalf of the right, or we go out of the union. Every act committed by the Vigilance Committee is a stain and an insult upon the state. What is the case? One of the most illustrious citizens of the state, one who has been elevated to one of the highest and most important positions within the gift of the people, a man of unimpeachable and unblemished character, one whom the people delighted to honor, has been ruthlessly seized and thrust into a dungeon by a set of men styling themselves the Vigilance Committee. He has been assaulted in the streets in attempting to execute the right of every citizen, and thrust ignominiously into a loathsome, dark dungeon."

"Who is he? Whom do you mean?" cried the crowd.

"He is a man known to you all," said the speaker; "he is Judge Terry."

"Let him stay at home! What business has a judge to mix himself up in street rows?" exclaimed the impudent crowd amidst great confusion.

Drawing a paper from his pocket Howard said: "I take one thing for granted, that you are willing to hear the truth; that there is in this crowd no man so cowardly or so mean that he is not willing to hear the facts."

"What paper is that?"

"This paper is conducted by a man you may de-

nounce and pretend to despise," continued the speaker, "a man of unquestionable courage, and one whom in your hearts you must respect—John Nugent of the *Herald*."

Loud laughter, deafening shouts, hooting and clapping of hands followed amidst cries of "Give us an impartial paper! Read from the *Union!*"

"Fools and cowards may laugh at it, but honest men—" Here the speaker was interrupted by a storm of shouts and laughter.

"I know that a few men have been hired and especially delegated to come here to interrupt—"

"They are nine tenths of Sacramento!"

Finally exasperated beyond endurance Howard shouted, "You are a set of vile cowards!" And a general battle of blackguardism, dirt-throwing, and epithet-hurling between the speaker and the crowd set in. A singular method, one would think, by which a wise man would attempt to make converts; as wise as that adopted by the learned supreme justice, who attempted to crush a community organized for the prevention of crime by stabbing one of its members.

Commenting upon this meeting the *Union* says: "Mr Howard instead of arousing any enthusiam for the cause of despotic rule and the butchery of the people, which he advocated, succeeded most effectually in bringing the law and order party lower in the estimation of good men than before, and completely floored Major-general Volney E. Howard in their eyes. He did have a reputation as a man of talents before he made that speech; he did succeed in convincing those who heard him, that he was not half equal to his reputation.

"These Texas men appear to think that the free men of this state can be driven like Indians on the western border of that state, at the point of a few hundred bayonets. They thought at first that five hundred men would be as many as they would need. They flattered themselves that the 'shop-keepers' of

San Francisco would not fight, that they would run if a handful of brave men presented themselves before them. These San Francisco men did not belong to a fighting stock, because they were peaceably attending to their own business, did not walk the streets with pistol and bowie-knife on their person, and had not killed nor shot their man in a street fight. Upon this point Judge Terry and General Howard have probably changed their minds since one was captured by the Committee and the other had his little army and their arms taken before his very eyes, while he deemed that duty or prudence required him to beat a retreat from the city." True. And like the explosive force in gunpowder as compared with the cracking of thorns under a pot, quiet men are as a rule the most dangerous element when aroused; and often the slowest to enter a fight are likewise the slowest to leave it.

"Could a gentleman or a man of honor be persuaded to have uttered such a tissue of lies, misrepresentations, and slanders as came from this infamous libeller at the meeting on Monday night!" exclaims a journalist. "Howard's billingsgate language towards the members of the Committee, more especially his slander that the noble-hearted Frenchmen who with other adopted and alien citizens have ventured their all in support of the common cause are convicts, is an infamous lie; and he knows it."

From Sacramento General Howard proceeded to Placerville, but finding the public pulse beating low for law and order in that quarter, he left, without attempting an address, for Coloma. Even there he failed to obtain a hearing.

Says the Nevada *Journal:* "Volney E. Howard, a San Franciscan, has been selected by our governor to take command of the thousands whose brave hearts are stirred by his belligerent proclamation, coming from the counties of Sierra, Nevada, Placer, El Dorado, Amador, and Sacramento. It is quite likely in any

decent emergency, the people of the district had just as lieve be commanded by a resident general, but as it is, it is a matter of congratulation to us that there is a scarcity of the timber in this division out of which such commanders are made. Williams, he that shot Bourland, an unarmed man, and he knew him to be so at the time, has been dubbed brigadier-general for the emergency. He will make a good subject to command the second brigade. Law and order is most beautifully exemplified in him, and will be most signally enforced by his commands."

"The ill success of the trip of V. E. Howard into the interior in search of recruits for the law and murder army," says the *Bulletin* of July 24th, "has quite discomfited the leaders in the movement against the people's interests, and places the military chieftain who indited a bombastic letter to Governor Johnson, after his defeat in this city, in a most ridiculous position. The workers in this scheme of iniquity are, however, indefatigable. They have printed a circular addressed to persons living in the interior, a copy of which, found folded in one of the unscrupulous sheets devoted to law and murder, has been handed us. Over it is written, 'To be signed by all who approve.' We do not apprehend that the number of signatures obtained has yet reached a very alarming figure. What a mass of bombast! We are informed that General Volney E. Howard is a guest of General Estell at the state-prison, where they both properly belong. He made a speech of three hours, to about twenty hearers, at San Rafael, on Tuesday last."

But what could Howard say against the Vigilance Committee? Listen to him, and remember that hitherto this man had enjoyed a reputation not only for common sense and common honesty, but for ability and respectability. "I say," he exclaimed vehemently, amidst great laughter and hissing, "because Casey killed King they hung Cora. Now, fellow-citizens, when Cain killed Abel, did the Almighty kill Cain?

No, he put a mark upon him and sent him away. But this Vigilance Committee is greater and wiser than the Almighty. They know more and know better how to punish. Ah, fellow-citizens, the time is at hand, the time is at hand when these green-grocers, these venders of sour flour and corned pork will have to look to their necks! They are already quarrelling among themselves, and I should not be surprised any day that they had broken out into deadly strife and killed a thousand men! Has not this detestable organization set father, son, brothers, relatives all against each other? Has it not stopped all business? Go down to the city now and see. If the streets were not made of rotten plank, the grass would be growing in them. Before three weeks the failures will astonish you all, for they must come, and soon. Now, they want the officers to resign; and for what? That they can deal their places out to some of their own gang. Yes, they begin to fear for their necks. They begin to think about disbanding, and with the present officers in power they know it won't do. Now, if they can get the officers out, and their own party in, they can disband with safety; for they know they are just as bad and just as likely to be hanged by the laws as Casey and Cora were by them. They talk of holding out till election time. You see, then, that the whole thing is turned into a great political machine, by which they intend to control the elections, and get in their own party. The spoils of the officers will help to remunerate them for their losses in attending to the Committee business. The spoils of office will be a fat morsel for those sour-flour dealers, who have lost their all by some flour monopoly speculation. They must be paid in some way, and there is no other way left them. Now, gentlemen, why have they not struck at the root of the evils they talk about? They have sent off a few of the poor tools, but they dare not put their finger on the great, the moneyed men. They dare not touch them. Shame!

Shame on them! Now, there is David S. Terry. What has he done to be treated in the manner he is treated? I say, nothing. I have known him since he was a boy, and he is above reproach. The man Hopkins they prate so much about, with a scratch on his neck, I say a mere scratch, made by Terry it is true, but it is also true that he had a right to do it, a right to defend himself. For this he is incarcerated in a dungeon, without even being allowed the consoling presence of his dear wife. Did the annals of history ever show such cruelty, such revenge? Why, the French revolution was nothing to it!"

These words were hardly worthy of General Howard, who, pleasantry aside, possessed a warm heart and a good head. But many heads on both sides were turned during these exciting times—more exciting than were found in many localities, throughout the civil war which followed.

The day of the attempted insurrectionary meeting before the Orleans Hotel, a pronunciamiento addressed to Governor Johnson by Howard against the San Francisco Vigilance Committee appeared in the columns of the *State Journal*. This document reviews the affairs of the last fortnight, since which time Howard had been in command of Johnson's forces, in the same spirit of candor, sound logic, and truthfulness which characterized most of the affirmations of the law and order cabal. Lest I should fail to do him justice I will permit General Howard to plead the cause of his party and denounce his opponents, so far as I have the space to spare, in his own words. It may be remarked *en passant* that there is a remarkable similarity in all the law and order literature of the period. What it lacked in reason it made up in roaring, and if veracity were wanting vehemence and vituperation were not. The reader will readily detect minor misrepresentations from wilful mendacity; for it was utterly impossible for men on either side, with passions at fever heat, at all times to control their

tongue, and present only sound, logical arguments in temperate language. Strange how differently men of equal intelligence and ability regard the same matter!

After reviewing the events of the previous Saturday, at which time he made an unsuccessful attempt through Mr Coleman to obtain the release of Terry, he recites the crimes of the Committee in the following words: "The circumstances connected with this movement are such as to leave no doubt in my mind that the insurgents aim at nothing less than an entire overthow of the state government and secession from the federal union."

So utterly absurd, so far removed from the thought of any member of the Committee, was this idea, that I deem it words wasted to refute it. I would only say that this accusation was persistently promulgated by law and order journals and speakers, day after day, until one would think that they in reality began to believe it, but I cannot so outrage their understanding as to give them credit for sincerity. The business men of San Francisco secede from the union because certain human vermin infest their streets!

To proceed: "If it had been their purpose to disband in a short period, they would not have committed piracy by robbing a vessel of a small quantity of arms upon the bay. They would not subsequently have levied actual war upon the state by surrounding the armories by a large military force and seizing the state arms and making prisoners of the men guarding them, especially as they knew that your orders were that I should act on the defensive, and that I had no power or means to pursue any other line of conduct. It must be obvious to all men of discernment, that this lawless association has proceeded from one crime and outrage to another until they have arrived at the conclusion that there is no safety for their leaders but in revolution and a separate government on the Pacific. They have committed treason, murder, piracy,

and the felony of kidnapping. They have violently and with force of arms trodden down the authority of the executive and judiciary. They have at the point of the bayonet resisted the execution of the writ of habeas corpus, for ages justly considered the bulwark of personal liberty. They have assembled around the jail of the county of San Francisco large numbers of armed men and planted a cannon against the front, and thus compelled the surrender of two persons therein detained in the custody of the law, whom they have since put to death without legal trial or the forms of judicial proceedings. They have without a warrant or any other process of law, forcibly searched the houses of honest and peaceable citizens at the dead hour of night, outraging families and terrifying defenceless females. For nearly six weeks they have trampled down by an armed military despotism in San Francisco every constitutional right secured to the citizens by *magna charta* and the bill of rights. They have robbed us of the heritage earned for us by the labors and sufferings of the sages and patriots of 1776. They have erected in the heart of the commercial metropolis a fortification filled with armed men to overawe the citizens and the civil authorities. By day and by night they paraded in the streets large bodies of armed men, and San Francisco presents continually the appearance of a city in the possession of a foreign foe. And it is so, practically. It is well known that the Vigilance Committee have armed and hired a large body of foreign mercenaries to shoot down the officers and citizens of the state in discharge of the duties cast upon them by the laws and their oath of office."

After a column or so in this strain he assumes a loftier tone. "What right," he exclaims, "have such men to kidnap one of the judges of the supreme court, a gentleman who is the soul of honor and truth? How dare these traitors thrust Dr Ashe into their dungeon, erected at the expense of their creditors, a gentleman

who had committed no offence, and upon whose integrity the mildew of calumny has never for a moment rested? Are the people of California descendants of men who can guard liberty with their swords, or some bastard race reduced to slavery on the shores of the Pacific by shopkeepers and merchants? When shall we all be sold in market to pay their debts in New York and Boston?"

CHAPTER XXVII.

THE VERDICT.

It was therefore of little immediate consequence that man should stand upright in token of his dominion.

Lotze.

GUILTY, and the prisoner to be discharged! Such is the paradoxical verdict. Guilty; and discharged! That is as the people first hear it. Terry at large! Free! Discharged by his judges who found him guilty. Nonsense! No wonder men smile incredulously when first they hear of it. Oh, no! Before they can be made to believe that of the executive committee, the people's pride and city's honor, the morning sun must first project black rays against the vaulted blue. No, indeed! These men are not traitors; they are not cowards, nor venal venders of public morality. Never would they yield to threats, nor sell justice at a price.

And yet it is true. These judges in whom but yesterday all placed such unbounded confidence, by whom these weeks past all good citizens have stood and beside whom they were ready to die, themselves pronounce him guilty; and then as if in the shameful execution of some dastardly conspiracy they surreptitiously discharge their too illustrious prisoner, in the opaque early morning, even guarding him from popular vengeance in his escape. 'Tis too outrageously true.

Such was the feeling on all sides among the vigilant ranks and among the people, everywhere except among the opposition, who of course were jubilant. Some

were sick; others were angrily sore about it. Nor did they hesitate to curse the Executive as men of milk and water, as frightened foolish cowards. Newspapers cursed them. Those who had contributed their thousands to support the movement cursed them. He who had played the common soldier through the long night watches, who had neglected his business and family, and had drilled and marched and confronted danger for nothing on earth but his inherent love of truth and virtue—he cursed them. Indeed, never were good men so blasphemed in California.

The people were sorely disappointed; their hearts sank within them. All was lost. They would not give a copper for the cause after that. Honor was gone; prestige was gone; all the hanging and banishment hitherto had been done in vain. Then how well it sounded. Brave, honorable men; hang your little Caseys and Coras, banish your Sullivans and your Mulligans, but the judge of the supreme court, let him go. Bah! Talk no more of justice or integrity.

This man had left his seat in the highest legal tribunal of the state, had left the capital, the city of his residence, had come to San Francisco for the express purpose of precipitating a bloody collision between the Committee and the state authorities, and had so forgotten himself and the dignity of his high office as to mingle in a street affray, in a matter about which it was far from his duty to concern himself, and finally to resort to the use of a deadly weapon upon a man who was seeking to do him no harm. And this, all as the part of a general plan, in which the weak Johnson and the mighty Howard were conspirators.

And yet he could neither be hanged nor banished. It was, indeed, exasperating.

Says one of the people's organs on the subject: "Had Hopkins been murdered by one of Terry's or Howard's misguided ignorant tools, and the Commit-

tee had merely banished him the country, we would not have murmured. But we look on Judge Terry in a different light. He is a man of education, of position, and wealth. He should have known better. Nothing but an unbridled passion and a wicked ambition for political advancement governed both Howard and Terry in this affair."

And thus another: "The critical period has arrived for the general body of the Vigilance Committee to act. The self-constituted executive body of that committee have managed, or rather mismanaged its affairs in the most scandalous manner, especially of late. The only remedy that now remains is for the betrayed members of the body to reorganize themselves and elect an executive body of tried men, fewer in number, but with stout hearts and clean hands—men who understand what an historical crisis is."

The trial closed at eleven o'clock Tuesday evening, the 22d of July, having lasted twenty-five days; but when we consider that sessions were held every day including Sundays, and that nearly every day there were two sessions, we may leave out the few days in which this case was not brought up and still have equivalent to two full months of ordinary court proceedings expended upon this trial.

In closing, Judge Terry pleaded his own cause, and Mr Smiley spoke for the people. The following oath was then taken by each member of the executive committee: "We hereby pledge our sacred honor to God and ourselves, never to divulge the votes taken in our verdicts rendered in the trial of David S. Terry to any living being outside this room. So help us God."

It was agreed that three fifths of the number of votes cast should be required to convict. On the first count of the indictment, that of resisting an officer of the Committee while in the discharge of his duty, the prisoner was found guilty. On the second count, that of assaulting Sterling A. Hopkins with a

deadly weapon, with intent to kill, the prisoner was found, by the executive committee, guilty of the assault only; the delegates, however, as we shall see, made him guilty of the entire charge. On the third count, that of an attack on Evans, the prisoner was found not guilty by the executive committee. The board of delegates dismissed this charge. All the other charges, except the seventh, on which he was found guilty, were dismissed by the executive committee.

On all the charges but the second the Executive had no difficulty in arriving at a decision. The vote on this charge was postponed till next day, the 23d, when it was ordered that if after the third ballot no verdict was found a committee of conference should be appointed to determine some plan of amicable settlement. The vote was then taken; when the prisoner was found guilty of the assault only. This did not at all suit the board of delegates who found him guilty of the entire charge. The matter of punishment was made the special order for 12 o'clock on Thursday the 24th. The grand marshal was directed to call together the board of delegates for Friday at eleven o'clock.

Thus of every important charge the prisoner was found guilty, nevertheless it was determined to pass upon him the following sentence: "That David S. Terry having been convicted after a full, fair, and impartial trial, of certain charges before the Committee of Vigilance, and the usual punishment in their power to inflict not being applicable in the present instance; Therefore be it declared the decision of the Committee of Vigilance, that the said David S. Terry be discharged from custody; and also, Resolved, that in the opinion of the Committee of Vigilance the interests of the state imperatively demand that the said David S. Terry should resign his position as judge of the supreme court. Resolved, that this resolution be read to David S. Terry, and he forthwith be discharged from the custody of the Committee of Vigilance on this being ratified by the board of delegates."

The board of delegates met pursuant to the call of the grand marshal, Friday morning, the 25th of July, at eleven o'clock. By invitation Mr Coleman occupied the chair. At the calling of the roll one hundred members answered to their names. After disposing of certain miscellaneous business the case of Terry was brought up and the evidence on both sides was read; also Terry's statement in his own defence, and finally the verdict of the Executive.

A motion was then made and lost that the delegates concur in the verdict of the Executive, followed by a motion which carried, that the board of delegates take a vote on each count of the indictment and verdict of the executive committee separately. The verdict of guilty on the first count was confirmed by a vote of ninety-five ayes to two noes. The verdict of guilty was found on the second charge by a vote of eighty-eight ayes to eight noes, the words in the finding "of the assault" being stricken out. The action of the Executive on the other counts was confirmed; all except the one charging an assault on J. H. Purdy, which was expunged.

Several meetings of the delegates now took place, in which the case of Terry was not brought up. Meanwhile the utmost persuasion on the part of those in favor of sustaining the Executive verdict failed to induce the board to acquiesce. Finally, at a meeting held the evening of the 31st of July, ninety-two being present, out of which number seventy-nine only were allowed to vote, the remainder not having heard the testimony read, the case of Terry was again brought up, when it was resolved, the Executive concurring, that he "be banished from this state on the shortest possible notice, under the usual penalty." The whole matter was then referred back to the executive committee, with the request that the Executive should meet the board of delegates, and the two bodies should act in joint convention until the vexed question should be settled.

The 5th of August the delegates called on the Executive in a body to learn their views in respect to the case of Terry. The members of the Executive having expressed their views, the board of delegates voted upon a motion to reconsider the sentence, which was lost. Next day by a vote of forty-four to thirty-six the delegates concurred in the sentence of the Executive; and on the 7th of August, at a meeting held at two o'clock on the morning of that day, the Executive resolved that the sentence of Terry be read to him, and that he be forthwith discharged, which was done at fifteen minutes past two.

"There was a dead-lock in the Committee," says Crary. "We cast some forty ballots before the board of delegates were called into session again. I think there were but thirty-four votes cast throughout the day; seventeen to seventeen all the time."

The delegates were brought to acquiescence only by influential members going from one to another, and explaining the dilemma and satisfying them that there was nothing else to be done under the circumstances. "He was bigger game than we calculated to bag," said Smiley; "after he was found guilty there was still a fight for time, to endeavor to get the executive committee to re-examine the case, or to retract their vote."

"Why the executive committee came to the conclusion that they could not banish him, I do not know," says the soldier Olney, more accustomed to obey than to question. "I only know I was in a terrible state of excitement that night when I received the order to liberate him. It was the only time during the whole reign of the Committee that there was anything like expression of feeling against any act of the Committee. But in this case a large number had gathered; the building was crammed. They got together on the lower floor, and there was a good deal of excited talk, and it seemed as if there would be resistance to

the order to liberate him, and a good deal of strong language was used."

Men of influence in the Committee, prominent among whom were Colonel Olney and Judge Blake, mounted platforms and attempted to soothe the angry assemblage; and such was the confidence of the members in their officers, such their abhorrence of anything like disruption in the ending of their hitherto harmonious work, that although they were fearfully and angrily excited they could but yield obedience. Though they hated the verdict, they revered the judges. Finally they calmed; and afterward all were ready to acknowledge the wisdom which governed the Executive.

Mr Coleman's explanation presents the matter in a very clear light: "Here was a disagreement or difference between the decisions of the Executive and the delegates, which was embarrassing. The Executive felt that it were better that their conclusion should be maintained and carried out; but the spirit of the whole organization was that of harmony and unity of action, and the Executive did not want a divergence on this most important case. The fact was that Hopkins had recovered, and any severe penalty on Terry was impossible. It was felt by the Executive that his long incarceration and trial, which had weighed heavily upon him, was a severe punishment, and sufficient to well-nigh compensate for his ill-advised interference with our affairs. But the masses of the people were still enraged against him, and not inclined to lessen any former conceived measure of punishment or penalty; and in this the delegates shared largely although submitting to and acknowledging the force of the views and action of the Executive. The common sentiment and demand with the community and the body of the committee was for exportation or banishment, but they did not realize what the Executive had fully considered, namely, that Hopkins having recovered, no case stood against

Terry similar to those against the other people whom we had executed or banished, and justifying a like course with him. Next, while the Committee adhered rigidly to the execution of even-handed justice withal, it would not have been even-handed, everything considered, to have banished Terry with the other characters. Again, justice being satisfied, it were bad policy, because the common sentiment of impartial and disinterested people would be in his favor, and would strengthen the claims and the efforts of his friends, who would surely have insisted upon and aided in his return to the country, and there would have been created thereby perhaps an increased, certainly a continued active opposition to the edicts of banishment of the Committee, and Terry once returned would be an excuse for others to follow; and the shield extended over him would have extended over others. Under these circumstances we could but let Terry's case rest, waiting what might be developed in his behalf or otherwise, waiting the effect of time, and hoping that a full agreement of opinion would soon be arrived at or other solution present itself."

After this well-nigh forced sanction of the delegates the Executive were determined to get rid of their too powerful prisoner before they slept, if it were possible. To accomplish this lacked one vote, and as Frink affirms, "they got up Captain Aaron Burns out of his bed to make up this deficiency, and that enabled them to pass the resolution by which Terry was liberated."

Mr Truett's dictation runs as follows: "A quorum of the Executive was obtained, as there was danger of Terry's being attacked, as we thought, by members of the Committee, and we thought it best to discharge him as soon as possible." He was taken through a store opening on Front street, and thence up California street to Dupont, where his friend Perley lived.

After Truett had taken Terry to Perley's house, he went home and to bed, and having been up for many nights with the burden of Terry's life and many other responsibilities on his hands, he was soon asleep. Half an hour afterward he was roused by Bluxome.

"There are a thousand men now hunting for Terry," he said.

"This will not do," Truett replied. "We have acquitted the man and we must protect him."

With Bluxome was Hossefross and a squad of men. Hastening over to Perley's house, where were wine and rejoicing in honor of his deliverance, Bluxome acquainted Terry of his danger. His reception was none of the most cordial, although his mission was pure charity. With generous hospitality he offered the hunted man his private apartments, saying, "They will not hunt you there." But the supreme judge had had enough of '33, Secretary,' and declined.

Presently Truett made his appearance, and to his able and brave defender Terry said, "I will be guided wholly by you."

"The best thing you can do, then," said Truett, "is to make your way down to the wharf, take a white-hall boat, and get aboard the United States sloop of war *John Adams*."

Terry assented, and gladly availed himself of the vigilant escort waiting Truett's orders without. "We all thought it best to have no crowd with us at all," says Truett's dictation, "and that a portion of his friends should go down on Kearny street, so as not to have too many together, and others should go in another direction. Terry and myself went down Dupont street to Broadway, and down Broadway to the water front, where a boat obtained by his friends was in readiness. Having got in he was put aboard the sloop of war, as arranged." It was at a quarter before two on the morning of the 7th of August, after a confinement of some seven weeks, that Terry was set at liberty. The afternoon of the

same day, in company with about one hundred men of law, he took passage on board the steamboat *Helen Hensley* for up the river.

The tidings of Terry's release fell upon the fever-stricken community like a chill. "There were three thousand men about the building, terribly excited," says Crary. Nothing of the trial from the beginning until now was known by the people, and now they were very angry; every phase of mingled ire and disgust was apparent on the faces which met that morning. Some were sorrowfully disappointed; others swearfully rampant. Their late idol, the Vigilance Committee, the people now cursed as traitors, weak and treacherous sycophants, who strangle smilingly friendless criminals, but who dare not touch the august Terry's garment's hem. As Frink puts it, "there was the devil to pay. It nearly broke up the Committee. Coleman came in and said he knew nothing about it, and calmed them as well as he could."

Indeed, to the manner of Terry's discharge Mr Coleman takes exception in language stronger than I have often heard him use. Speaking of the eleven brought together for the express purpose of liberating Terry, of which number Coleman was not one, his dictation says: "They took advantage of a provision in the rules of the Committee which allowed about a dozen members of the Executive to act as a quorum by night in cases of danger or emergency requiring immediate action, and proceeded accordingly."

"My own plan," continues the president, "and that of some others, which I had freely expressed, was that upon the concurrence of the board of delegates in the sentence of the Executive, Terry should be formally discharged in broad daylight, in the presence of the whole Committee assembled for the occasion, and escorted by the military from his place of imprisonment, which proceeding would have been more in accordance with the character and dignity of the

Committee than that actually pursued by the minority of the Executive."

In truth it was a trying moment and displays in a greater degree than any other incident of the crusade the rare self-control of the leaders and the strong and ruling principle which could hold as in a vise disrupting passion pervading the whole association.

Let us follow Mr Coleman a little further: "It was a matter of intense surprise to the president and the other members of the Executive and of the great body of the whole Committee the next morning, to learn what was on everybody's lips, that Terry had been clandestinely allowed to escape. Excitement was intense; rage, mortification, invective were the features of the hour. How? Why? Wherefore? By whom? were the questions everywhere resounding. The answers were, We cannot understand it. We left the delegates in convention, the vice-president of the Executive in the chair. We supposed that this action if any, would be reported to the Executive. A demand was made on all sides for explanations, for reparation, for punishment of the guilty ones, if they were guilty. The great body of the Committee were of course in utter ignorance of these several proceedings which had led to this result and were incensed and outraged at what they considered treachery and cowardice. The main floor of the Committee room was crowded, and an impromptu organization was called for, for explanation, and as some expressed it for further action. All the seeds of dissension or of dissatisfaction that had been sown by our enemies during the Terry trial seemed at this moment to be ripening, and prompt and proper action was evidently needed. The president called the Executive together and an explanation was asked of the members who the night before had discharged Terry and who by this hour were well known, which they gave; and after all was said and all that could be was done the final answer resolved itself that it was very ill advised, very hasty, very unfortunate, very

undignified, not in good taste, nor becoming the Vigilance Committee. These members and others were requested to address the body of the meeting below, explain proceedings, and if possible satisfy the body of our members and restore quiet. They were accordingly addressed by a number of gentlemen, and every effort was made, and assurances were given that the Executive in full session approved of what was done. But while many were satisfied the majority would not be, and they called for the president, and sent deputations to him asking him to address them and to give his assurance of approval of what had been done. The president responded, and assured them that what had been done did not meet his approval and could not, for while what was done was technically right in substance, it was palpably wrong in manner and form; and while we must abide by it, it was one of the few prominent things in the whole course of our labors that caused him deep regret. While we could not approve we had to abide by what was done."

Indeed, taking it all in all, it was of very little consequence how the judge was discharged. Secretly and by night was the quickest, quietest way; openly and by day would have displayed the discipline of the troops at the best advantage, provided their obedience proved equal to the emergency. The verdict, the discharge, the assertion and acknowledgment that though guilty of serious charges the Committee could not punish him, after all their professions of fairness and of power, were certainly nothing to be proud of nor to make special parade about.

Actuated by the highest motives that restrain and govern society, the executive committee were to be swayed by no mortal man, by no mortal passion, by no journalistic enforcement. Thomas King, of the *Bulletin*, as is frequently the case with journalists who heartily espouse a cause and argue for days and months on one side of a subject, was very bitter. "The first false step," he writes over his editorial of

August 7th. "It is with feelings of mingled indignation and regret that we are compelled to announce to our readers that the executive committee of vigilance have seen fit to let loose upon our community the rowdy Judge D. S. Terry in the farce of trying whom this body has been for some time engaged. We are in possession of none of the reasons which impelled these individuals to this course of conduct, except such as may be gained from general rumor. The executive committee have taken action which we cannot speak of as other than criminal and weak. They have failed in their pledges to the people to act without fear or favor. They have checked the reform movement, perhaps killed it. They have infused new spirit into the rowdies and personal responsibility men, against whom they have seemed hitherto to be in opposition. They have set at naught the general committee and the people. They have acted not only without the consent of those from whom they derive all the power they possess, but in direct opposition to their ascertained will. They no longer represent the feeling of our community. Let them not complain if in any danger which may hereafter threaten them, that support which has hitherto been so cheerfully awarded, shall be found wanting."

And so this journalist goes on for a column or so, and the next day as much more and the day after, heaping up the most scurrilous abuse upon the men who but yesterday were gods. To say the least it was in very bad taste. As long as the executive committee fed well the fire of Mr King's passions, or as long as hanging and banishing were lively, all their actions were highly praised. Here these men for the past six weeks had been sitting as judges, had been engaged in the weightiest matters incident to tribunals of justice, had been listening to arguments and weighing evidence, endeavoring to lay aside all passion, and judge as became men filled with a sense of their awful responsibility. And now the tempo-

rary editor of the paper sets up his individual opinion or passion, whichever it may have been, against the mature judgment of the entire executive committee. Now he not only threatens to drive them from power, but to withdraw from them the protection of the general committee, and leave them to the mercy of their enemies. But such a threat had little influence with such men.

Practically the case of Terry came up before the Committee in this way: First, should the same quality and degree of punishment be dealt this man, in so far as he should be found guilty, as to an ordinary offender, and without fear of the consequences? Essentially, yes. Yet the popular element in the Committee would have banished him. Many wanted him hanged. But the matter must be regarded calmly and from all sides. By its own code the verdict of the tribunal did not justify extreme measures. The only penalty then remaining which the Committee were accustomed to inflict was that of banishment. Without doubt his position was the chief obstacle to this sentence. Had he been a poor and ignorant man, a less exalted personage, friendless, or whose friends were men of no influence, the judge would unquestionably have been unceremoniously sent abroad. It would seem that the *fiat justitia ruat cælum* of their seal had become a mockery.

The whole attitude of affairs, however, must be taken into account. The San Francisco executive committee of vigilance was not a mob, acting through impulse alone; otherwise the honorable justice would have been more harshly dealt with, for the masses were against him. They were a body of intelligent and responsible men, who, though acting in secret, were known to many. Though superior to law, they had not law on their side. Instead of being aided by the law in performance of their praiseworthy duties, they were hampered by men who in the name of law

threw every possible obstacle in their path. Now without subjecting themselves to a just charge of fear or favor, one may easily perceive how certain acts could be performed by the Committee with comparative safety, while certain other acts, which ought likewise, if possible, to be performed, might be attended with too great danger to the commonwealth. They would exercise a wise discretion. With unbounded power execution was easy. Moderation, restriction, self-control, these alone were difficult.

That the Committee were afraid of Terry or of his friends so far as retaliation was concerned, I do not for a moment believe. Power was on their side; and had they been governed by passion alone, the very fact of his being a judge of the supreme court would have only intensified their desire to punish him. But might not the banishment of Terry make it appear, more particularly in the eyes of the authorities at Washington, that the protestations of the Committee against any thought of usurping political authority were somewhat unsubstantial? The government might wink at the hanging of a Sing Sing convict, when the banishment of a state judge would bring about its ears such a din as would give it rest never more. Moreover, to banish Terry would be an expensive luxury. To send him to Honolulu or Panamá would be idle, for he was a determined character, with a large political party behind him, and he would immediately be back again and in the hands of his friends. To make his banishment effectual it would be necessary to place him on some island unknown to his friends, and from which he could not escape. I do not see how the Committee could have adopted any other course without subjecting themselves to the charge of foolhardiness and lack of judgment.

Let the attitude assumed by these men be here noted. Like the action taken by Lincoln and Seward in the Mason and Slidell affair, it was for the moment unpopular, bringing upon the devoted heads of the

Committee anathemas, the curses of friends and the jubilant sneers of enemies. Yet to-day, who shall say they were not right? Who shall refuse their names a place among the greatest names of this great nation? Mark the connection. These gentlemen of the executive committee, these green-grocers, stale flour sellers, salt pork and codfish dealers were charged by their opponents as arrogating unlawful authority. The work they were doing, everybody admitted was a good one, but, said the law and order men, look out for the reaction, beware of mobocracy, of drunkenness in the exercise of power.

In due time all of the public journals which had hitherto been upon the side of vigilance came to acknowledge the wisdom and justice of the tribunal. The *Bulletin*, always the foremost in the cause, was the last to give in. Indeed, it seemed as if, in memory of the offence, ever since the slaying of his brother, Thomas King's heart had grown more and more bitter, until the most extreme measures in every instance alone would satisfy him. In the affairs of the tribunal, and presently in local government and municipal affairs, he assumed too nearly the tone of a dictator, as though his misfortunes gave him superior rights, and that the people should hear him for his wrongs, if for no other cause. But the wrongs of Thomas King were no greater than those that befell many a better man who made less noise about them. James King was fortunate enough to have a real grievance. He was a good man, and in the main was on the side of truth and honesty. He had been badly treated, and he saw that the community were being badly treated by bad men. He seized the opportunity to chastise with one blow his own enemies and the enemies of the commonwealth. He did well; laid down his life in the cause; and the people praised him. Thomas King was not a great man, nor a particularly good one. He was endured for some time on his brother's account, but after a while the people got

tired of his continued and bitter abuse, and the *Bulletin* fell into better hands. It has always remained on the side of the people and the people's party, whatever those terms might chance to signify. The *Bulletin* has an origin and history of which it may well be proud.

It was not long after the discharge of Judge Terry that a journalist of pronounced vigilance proclivities writes: "The first dissatisfaction has calmed down, and now all seem content to bear the executive committee out to the end. The first dissensionists are prepared to give up their personal opinions for the common good." No higher proof of the wisdom of the executive committee could be given than this admission on the part of one who within a fortnight had been unable to find in the vocabulary of his invective words of condemnation sufficiently strong for the betrayers of public trust who had liberated Terry.

The prompt punishment of those who pervert the law is what law should do, but what it never has done in this country. Of all others, lawyers and judges have trampled upon law with the greatest impunity. Next to the hungry, the ignorant, the openly or professionally vile, politicians are the greatest curse to a community, and our politics and government are much too closely allied.

Had the Committee purposed political advantage to themselves, had they been prepared to overthrow the government, had they meant revolution, their case would have been plain. But as it was, this determined judge was too large game for the calibre of their intentions. They admitted it. They could not pass the assault unnoticed; the populace would have laid violent hands on him else. Had Hopkins died, hanging would have been easy. As it was, Terry had done nothing which by their own law warranted the Committee in taking his life. It was a standing rule with them to punish capitally only for murder, to punish no more severely than the law would punish

if properly administered. If the tribunal erred, it was always on the side of leniency, in this matter following the example of the law, as may well be imagined, with a thousand unpunished murderers in the country. Had they hanged all who really deserved it, their hands would indeed have been full.

The only other method of punishment open to them was exile, which in this case was simply impracticable. At best banishment, as practised by them, was very much of a farce. A penniless vagabond they could ship hence, and so get rid of him. But this was a far different case. Terry might have been sent away, but he would have returned. Put him on a lone island and place a guard over him, his friends would have scoured the remotest corner of the Pacific to find him, and then would have hounded the government until he had been liberated. Banishment in this case was impracticable, impossible. There was then but one thing left for the Committee to do; in that straightforward, honest, manly way which characterized all their words and acts they said: "We have tried this man. He is guilty. He deserves punishment, but we are not the proper power to inflict it. He should resign his position. Our duty draws us no further in this direction; greatly against our sense of justice, but forced by necessity, we discharge him."

As the river steamer which bore him hence passed the *Adams* a salute was fired by Captain Boutwell, an act which brought upon his head the curses of the vigilants and the smiling approbation of their opponents. Immediately after his discharge Terry took his seat on the supreme bench beside his old colleague, now also returned to his neglected duties, and decisions were soon rolling out of the mill as lively and of as fine a quality as ever over the signatures of that famous pair:

MURRAY, C. J.
TERRY, J.

Nothing could prove more conclusively the strength

of the organization than the agitation of a question abounding in such manifold fierce antagonisms. It is the constant strain that breaks the strong man's strength more surely than the heavy blow. So subtile had been the spells cast by the charmers that many of the Committee were tainted; many openly avowed the opinion that Terry did right in striking Hopkins, and that he did not deserve punishment. There is something extremely fascinating in the chivalrous courtesy of the southerner; something extremely winning in his soft, plausible speech, more particularly when placed beside the coarser honesty of the New Englander, and this influence began to permeate the body of reformers like a poison. There was no greater trial in the whole campaign than holding steadily to their work under such circumstances, while battling at every step these counteracting influences. The fibre and tenacity of the association were nowhere so manifest as throughout the Terry trial.

"Public sentiment had applauded the acts of the Vigilance Committee up to the time of Terry's liberation," says the Nevada *Journal* of the 15th of August, 1856, "and with the exception of a wild and blood-thirsty few who had set their hearts on the execution of Terry, and steeled them against the palliating circumstances of his case, there is a general feeling of acquiescence in the magnanimous disposition of the distinguished prisoner by the Committee. The general features of the evidence against Terry were published long ago, and we early took the ground that if such was all and the only evidence against him he was not worthy the doom an excited populace had designed for him. And before we gave a blind sanction to all the acts of the Vigilance Committee, or gave them a *carte blanche* for ourselves, we desired to be fully satisfied that the members of the Committee were men of iron nerve, and able to withstand the heavy outside pressure at the expense of justice. The people have already pronounced their approbation of the previous acts of the Vigilance Committee, and hereafter, if not wholly now, will they admire and appreciate the justice and moderation which set Terry at liberty. The executive committee have displayed more moral heroism in this last act in braving the will of thousands of their friends, than by the performance of any previous deeds, however responsible, or good and beneficial to society they might be. It could be desired that the friends of Terry were blessed with a modicum of that magnanimity and moderation which has so signally characterized the Vigilance Committee in restoring to freedom the distinguished prisoner of the latter and the valued associate of the former. It is in exceeding bad taste to get up a triumphal procession like the one

at Sacramento, make speeches, and glorify the triumph of law and order. Had the friends of Judge Terry been sufficiently numerous, or gifted with oratory sufficient to revolutionize public opinion, or had they the courage to take Fort Vigilance by storm and set their friends at liberty, it might be appropriate to celebrate their victory with an ovation. But when they owe the liberation of a friend to the justice, moderation, and magnanimity of a foe, it is well to rejoice for the good fortune of the friend, not to exult over it as a triumph over enemies. Judge Terry was paraded through the streets of Sacramento to the tunes of 'Hail to the Chief,' and 'See the Conquering Hero Comes!' Such an exhibition is trifling, puerile, contemptible. But Terry's friends have never displayed, during the whole time of his confinement, the smallest appreciable quantity of good sense, and it could hardly be expected on this occasion."

A pamphlet of seventy-five pages containing the trial of D. S. Terry before the Committee of Vigilance on seven distinct charges was issued from the press the 2d of September. It was copyrighted by Charles L. Case, a member of the executive committee.

It may well be imagined that there was great rejoicing over the discharge of Terry, and many were the base motives attributed to the executive committee by both friends and enemies. Hear the *Herald:* "He was so just a man that even they, all cankered with revengeful prejudice as were their minds, could find no offence in him, and so discharged him. The most vindictive and purblind bigotry, perjury the most unblushing, slander the most venomous, every dirty artifice that grovelling meanness could invent to his prejudice, espionage the most villainous and contemptible, and all the varied means and appliances of a most extensive and unscrupulous power were employed to crush him. The release of Judge Terry is properly regarded as a great triumph over mob-law. The act performed by the Vigilance Committee yesterday morning is the virtual signature of their death-warrant." How beautiful, and, above all, how true! Some are indeed hard to please. If Mr Nugent spends so much of the vituperative part of his dictionary in cursing the Committee for releasing Terry, what would he have done for words had they hanged him? Mr Nugent was hardly satisfied. He would have

been better pleased to have seen the Committee entangle themselves to their destruction.

The lady friends of law and order presented the bloody-minded supreme justice a silver pitcher with the following inscription: "Hon. D. S. Terry, from the ladies of San Francisco, who admire his courage, honor his patriotism, and take the highest pride in his heroic resistance to tyranny. August 26, 1856."

What would the world be if our wives and sisters and daughters did not think as we thought, did not believe in us, did not regard even our dastardly deeds as heroic actions? God bless their warm hearts and credulous heads; who would have them otherwise!

CHAPTER XXVIII.

HETHERINGTON AND BRACE.

Bestemmiavano Iddio, e i lor parenti,
L'umana spezie, il luogo, il tempo, e' il seme
Di lor semenza, e di lor nascimenti.
Dell Inferno.

So absorbed, during the month of July, was the public mind in the momentous affairs of Mr Justice Terry, that the arrest, trial, and execution of two little murderers passed comparatively unnoticed. It was after Terry's trial and before his discharge, while the difficulties of agreeing upon a verdict were pending between the Executive and the delegates, that this tragedy was performed. It was done in close proximity to the ears and eyes of the Texan judge, and as his own fate then lay in restless uncertainty in the same hands, the play was not a particularly pleasing one to him.

And now that the writer of this history has placed the great prime-minister of disorderly law back upon his bench, there once more to deal high and holy justice, as in days past, let the mind of the reader, in common with the excited thoughts of the populace and the strained nerves of the Executive, descend to the narration of the more plain and easy cases of common strangulation. Work must not accumulate at Executive head-quarters, though presidents' frown, governors swear, and judges interfere.

Mr Philander Brace was sitting in Barry and Patten's saloon, on Montgomery street, on a Thursday afternoon in June. A newspaper was in his hand and a back window near; alternate glances were cast

at one and the other. Evidently Philander's meditations were of a mixed quality; his visions partook of the character both of a Milton and a Dante. His heaven was the polls, the supervisor's precincts, and law courts, intermingled with a little crib-cracking, drinking and gambling comforts, and now and then a play in which he took the part of chief tragedian. His hell was Fort Vigilance on Sacramento street. Deep in his abstractions at twenty minutes before three, he felt his arms lifted and gently locked each in another arm. Turning his eyes first to one side and then to the other, gradually a realization of his position dawned upon him. "Behold the emissaries of Satan!" he thought. "Hell is here; myself am hell!" Quietly he arose and walked away, like Mary's lamb between two butchers, and soon was assigned a room in the Vigilance Committee building.

The Committee were preparing for the trial of Brace when Terry precipitated his unwelcome presence upon them. At their meeting of the 21st of June it was resolved that when he was tried it should be for the crime of murder, and that the same rules of trial should be observed in the case of the People *versus* Brace, as governed in the trials of Cora and Casey. At the Executive meeting of Tuesday evening, the 24th of June, T. Thompson was appointed prosecuting attorney in the case of the People *versus* Brace, charged with murder, and H. M. Hale attorney for the defence. It was ordered that the trial of Brace should be taken up immediately after the trial of Terry, and that meanwhile all the necessary preparations should be made for the said trial.

As soon as it became apparent that the trial of Terry was destined to be prolonged, the Committee determined to dispose of Brace immediately. His trial was therefore made the special order for Wednesday evening the 25th of June at eight o'clock. Again the trial was delayed, and resumed the 16th of July, at which time the following charges were pre-

ferred: first, robbery of one Willet Southwick the year previous; secondly, shooting and robbing of a Mr Scharff; thirdly, murder of Joseph B. West in June, 1855. To all these charges Mr Brace pleaded not guilty.

The certainty of punishment, I have said, rather than its quality is the fear of felons. One would think that in San Francisco on the 24th of July, 1856, this maxim would hold good if ever. With eight thousand armed citizens standing ready for the arrest, with the fate of Casey and Cora so fresh in the minds of evil-doers, with a judge of the supreme court of the state at that moment in the hands of the Vigilance Committee undergoing trial for his life, it would seem that he must, indeed, be a bold villain to attempt murder with such surroundings. Yet such a villain there was. And the Committee of Vigilance should surely require no further apology for its existence; a disinterested man would certainly desire no more conclusive evidence of its absolute necessity to the life and welfare of society than that men so hardened in criminality yet roamed at large; that human hyenas of so reckless and blood-thirsty character still stood about the streets unchained.

Andrew Randall, physician, residing in Marin county, a native of Ohio, a man respected, beloved, and having a family dependent upon him for support, owed certain money to Joseph Hetherington, an Englishman from Carlisle, an infamous character who had committed many crimes, among others that of the murder of Dr Baldwin in 1853. The first year after his arrival in California in 1849, Hetherington drove a cart, but this was too honest and tame an occupation. He liked three-card monte better, and by this game won large sums of money during the years 1850 and 1851. He was the associate of Whittaker and McKenzie of '51 vigilance notoriety, and in their company committed many crimes; but being a slippery

scoundrel, to whom, in common with all such, the law was exceedingly kind, he escaped unpunished.

Randall's property was in real estate, and he could not pay his creditor. Hetherington insulted him on every occasion, and swore he would have the money or his life. Randall armed himself and went about his business. On the day before mentioned, the 24th of July, Randall entered the St Nicholas Hotel and stepped up to the office and registered his name. The clerk then handed him some letters, while reading which, Hetherington unobserved came in and stepping up to Randall seized him by his long flowing beard, jerking him some five feet from his position, and exclaimed with a horrible oath, "I've got you now!"

Randall attempted to draw his weapon, but Hetherington was too quick for him. Hetherington's first fire, however, did not bring Randall down, and the latter by this time managed to get out his pistol and return Hetherington's shot. Then they both fired again, almost simultaneously; after which Randall ran round into the office and endeavored to shield himself behind the counter. Hetherington then approached him, reached over the counter, and deliberately discharged a ball into his head, inflicting a wound which was at once pronounced fatal. This was about half-past three o'clock on Thursday. Saturday morning at nine o'clock Randall died.

Soon after the fatal shot was fired Hetherington was arrested by a policeman, who started with him for the station-house.

"Not so, Mr Officer," murmured the crowd; "that sort of thing is stale in San Francisco."

Scarcely had the policeman stepped into the street from the door of the hotel when a detachment of vigilants came up.

"Allow me to relieve you," said the officer in command to the policeman, taking Hetherington by the arm.

Without a word the policeman gave up his prisoner

and melted into the crowd. Indeed the law, with all its limbs and branches, was becoming mannerly. It was only such as the imbecile governor, the bombastic general, and the bloody justice of the supreme court that were yet refractory.

Hetherington was taken to vigilance head-quarters and thrust into a cell, heavily ironed. All eyes were now turned to the executive committee. With one accord the people demanded immediate action. "Hang him!" was the deeply muttered verdict, "and now. There is no question as to his guilt. Let him promptly pay the penalty of this most brutal act." Likewise they questioned earnestly, What would be done with Terry? "If the Vigilance Committee once set Terry at liberty," cries one, "and he takes his seat with the immaculate Judge Murray on the supreme bench; and if Johnson, the weak and imbecile governor, remain in the chair of state, with the chivalrous Howard, chief military commander, whose will the Committee be, and where will the citizens find themselves twelve months from now? It is folly to talk. The Committee have only one of two courses to pursue, namely, to make Terry resign and leave the state, or to hang him forthwith. The people are not going to be longer ruled by that quality of domination hitherto administered by certain state and county officials."

But the executive committee were not to be hastened, or swerved from what they deemed a dignified and deliberate course, any more by the zeal of their friends, than they were to be deterred from executing what they conceived to be their duty by their enemies. Hetherington should not be hastened angrily into eternity. Terry, supreme judge though he was, should have as fair a trial as the courts could give him, ay, infinitely fairer.

Hetherington was brought before the Committee for trial at ten minutes to nine on the morning of Saturday, the 26th of July, the second day after the

murder. To the charge, read to him by Jules David, he pleaded not guilty, saying that he killed Randall, but that it was done to save his own life. Nearly the entire day was occupied in the examination of witnesses, and the trial was continued the next day. Smiley was attorney for the defence, and to this day Smiley believes in Hetherington's innocence. There were honesty and sincerity for you, certainly, when a criminal of the deepest dye so worked upon the common-sense and judgment of these hard-headed tribunal men as invariably to make whosoever advocated their cause believe in their innocence, or at least believe that they were justified in committing the crime charged upon them.

At three o'clock of the same day, Sunday, the 27th, Brace was brought in for trial and the indictment read by Mr David. The prisoner at first pleaded guilty, but afterwards changed his plea, saying he was present at the time of the killing of West, but did no shooting.

At half-past five the same afternoon, Hetherington's case was resumed. The testimony finished, a statement made by the prisoner was read by Mr Smiley, who opened for the plaintiff, after which Mr David closed the case for the prosecution. The prisoner was found guilty and sentenced to be hanged. Next day, Monday, the trial of Brace was concluded and a verdict of guilty rendered. On the same evening the delegates met and concurred in the action of the Executive in both cases. The delegates recommended that the prisoners, Hetherington and Brace, should be executed the following day, Tuesday, the 29th, between the hours of three and six o'clock in the afternoon.

It was past midnight before the testimony on both sides had been read before the delegates and their concurrence expressed. The prisoner, Brace, was now brought before the delegates, Mr Coleman presiding.

"Philander Brace, stand up. Have you aught to

say why sentence of death should not be pronounced against you?" asked the president.

"No," said Brace, "except that I am innocent."

"You have been found guilty by the Committee of Vigilance of the crime of aiding and abetting in the murder of J. B. West on Sunday, June 3, 1855, and you are now sentenced by the Committee of Vigilance to be hanged by the neck until you are dead, and this sentence will be carried into effect at or about four o'clock P. M. of this day, Tuesday. And may the Lord have mercy on your soul."

"Is that all,?" asked Brace sneeringly.

"That is all," replied the president.

"Then I am ready," said Brace.

Joseph Hetherington was then sent for and brought before the delegates by the director of police.

"Have you anything to say why sentence of death should not be passed upon you for the murder of Dr Randall?" asked the president.

"I don't know that I have at present," Hetherington replied. He then asked, "Shall I have the privilege of seeing my attorney?"

"Yes," replied the president, who also asked him, "Do you wish to see a minister?"

"I wish to see a minister," said Hetherington, "but I would rather see H. H. Haight first."

The poor fellow was then sentenced, and remanded to his cell.

Mr Truett's law and order brother objected to further strangulations on his premises, although he by no means objected to the revenue derived from their use for vigilant or any other purposes. Davis street, between Commercial and Sacramento streets, was selected as a site for the execution.

By noon on the 29th of July, it was generally known about town that two men at least were to be executed by the Vigilance Committee that day. A scaffold was erected on Davis street, between Sacra-

mento and Commercial, and the entire vigilance force was under arms. Impelled by a morbid love of the horrible, by three o'clock an immense concourse had assembled, filling the streets, balconies, windows, and roofs for four or five squares round. Infantry companies were marched out and posted at various points commanding every avenue of approach to the Committee building. Beyond these the cavalry were stationed. Loaded brass cannon were placed at every corner of the square, and the gunners stood by with torches ready lighted. Thus the military surrounded the entire block within which was situated the Vigilance Committee building. The scaffold rose in a dense square of soldiers four or five deep. It consisted of a platform eight feet square, elevated ten feet above the street on four heavy posts, and reached by steps on the east side. Heavy upright posts on the north and south sides of the platform supported a cross-tie seven and a half feet above the platform. Fastened to the cross-tie were two noosed ropes. Nearly all the platform was a trap, fastened in position by a rope, which on being cut let fall the trap. All the while this engine was building, the vigilant forces were manœuvring about the vicinity, marching and countermarching, all under Marshal Doane, with aids-de-camp riding hither and thither.

About half-past five, everything being in readiness, the prisoners were brought out and placed each in a separate closed carriage, although they had to be taken only round the corner. A procession was then formed in front of the Committee rooms, consisting of the executive committee, a company of pistolmen formed by delegates from each company of the general committee, and the prisoners, with their guards, in carriages. The executive committee took their position to the north of the scaffold, and the pistolmen surrounded it.

One of the carriages then drove up to the scaffold stairs, and out of it stepped an intelligent, fine-

looking man about twenty-one years of age, dressed in black coat, dark vest, checked cassimere pants, and Panamá hat. That was Brace. He was a man of talent and education. His arms were tied behind at the elbows; his hands were in his pantaloons-pockets; his eyes were nearly closed; and every muscle of his pale excited face seemed stretched to its utmost tension in the desperate effort of the young man to nerve himself up for a death of bravado. He was led up the steps by the guard and placed on the south side of the scaffold. From the other carriage Hetherington was taken and placed beside him, both facing the west. Hetherington was a tall man, dressed in black, with a sunburned, full-whiskered face, earnest and serious. His head was covered with a straw hat, and his arms were bound like those of the other. There were on the platform the executioner, in black muslin robe and cap, and several other persons. The culprits' legs were bound, their collars removed, and the noose put round their necks. Hetherington was docile and respectful; Brace twisted his mouth as the executioner put the rope round his neck, and threw into his face a soul-full of scornful hate. The two criminals then shook hands with each other and with several standing near them.

The executioner then stepped back, holding ready in his hand the white caps which should shut this world forever from their vision. Now, O unfortunates! behold for the last time earth with its sea of upturned faces, and sky with its silver-lined clouds rolling in illimitable blue; drink in the last draught of life-giving air, for soon that rope will close all avenues of breath; let lips and tongues now speak, for a few moments hence they will be stiff and black. Ah, thou ugly monster, death, what a mysterious thing thou art! Every one of that gaping multitude has soon to die, the best and the worst, and they all well know it, and yet because these righteous man-killers—always righteous, always sure of heaven, for

so their spiritual physicians tell them provided they can adapt their tongue to certain mummery—because they have to die a few days sooner than those before them they think it hard, very hard. Why, most of the fifteen thousand gathered there are at this writing dead, and yet how many of their names, by reason of their good or evil deeds, are enrolled in the immortal pages of history! How many of them have had their last acts noted, their last words recorded, and handed down to remotest generations!

But let us hear what they have to say while they can speak. And first the new-born angel Hetherington. "Gentlemen, you may think I am a hardened sinner," said he, "but I appear before you mild, unconcerned, and pleased. I know that in a few minutes I must meet my maker. To the best of my knowledge I have not lived one day that I was not ready to meet my maker that night. Do not think I am boasting. Such is not my case. The reverend Bishop Kip has been with me all day, or nearly all day. Have you that all down?" he now asked of the reporters.

"Oh, go on! go on!" here broke in the other criminal, evidently throwing his whole vitality into his nerves that they might not fail him now. "Say what you have to say! Here am I, Brace, murdered by the Vigilance Committee, so and so, like a—"

"I am not more penitent to-day," continued the heavenly minded Hetherington, "than I have ever been."

"Go on, old fellow, go on!" here chimed in Brace. "Hetherington, in less than an hour you and I will be in hell, and the boys will be singing out in the streets, 'Brace and Hetherington's dying speech,' and we shall be roasting in hell! Ha, ha!"

"Our conversation turned upon religion," continued Hetherington, somewhat confused, but evidently referring to his conference with Bishop Kip.

"Damn you, go on!" cried Brace, half crazed, "If I could I would kick you off from there. Go on!

Don't palaver! I don't want to be here to be stared at." His words were mingled with oaths too horrible to repeat.

"If the gentlemen in whose hands I am wish it," meekly replied Hetherington, "I will stop."

"No, no! go on!" cried the crowd.

Hetherington continued in about the same strain with constant reviling and noisy interruptions from Brace.

"Gentlemen," now shouted the latter, "I want you all to understand that I, Brace, am murdered by the Vigilance Committee on the 29th day of July eighteen hundred and fifty-six! Do you understand that? Is that clearly and distinctly spoken?" His knees trembled, his brain whirled, and his heart seemed sweltering in hate. He was certainly an object of pity. Finally it became necessary to stop his outcries, and one standing near put a handkerchief over his mouth, though he cursed the man that did it.

"I defy the whole world to prove a dishonorable act upon me," continued Hetherington.

"Go on, damn you!" exclaimed Brace through his muzzle.

"I forgive every man living as I expect my Redeemer to forgive me," said Hetherington.

"Go on, old hoss!" interrupted Brace.

"There are few men that have lived the life I have, high, pure, and moral," continued Hetherington.

"Damn it, dry up! What's the use talking?" broke in Brace, "I'll roll myself up in the American flag and die like a—"

"I have not had a fair trial," said Hetherington. "No jury would have convicted me. I am here a spectacle to you all. I have prayed from the days of my youth."

The executioner now approached and covered the heads of the condemned with the white caps, during which operation Brace said to him: "If I could have one last request granted it would be that I might hang

with Terry on one side and Hetherington on the other, Christ-like, between two thieves."

The truth is Brace was intoxicated at the time he was hanged. It may seem horrible to launch a soul, drunk, into eternity, that is to say if souls become so affected by intoxicating drink. It created some scandal at the time; but the Committee should scarcely be censured. It is a nervous business to be hanged, and humanity prompted the administering of some stimulant in a moderate degree. The guard told Smiley that Brace had asked for liquor.

"That is a small gratification," said Smiley, "I see no harm in it; but you had better speak to the doctor about it, so that he does not get too much."

The guard afterward told Smiley that not more than a table-spoonful was given him, and Smiley expressed himself satisfied that such was the case.

Dr Cole's testimony on this point is conclusive. In his dictation he says: "Food, raiment, and drink were admitted to these prisoners only upon my written requisition, and I am consequently responsible for all that transpired as growing out of these requisitions, and prepared to verify the statements that I here make. On the morning of the execution of Brace and Hetherington I made my usual visit to the prisoners, found them in usual good health, Hetherington being somewhat depressed, yet evidently making an effort to conceal that fact, whilst Brace assumed, as he had always done when I visited him, an air of bravado, cursing his mother, cursing his fate, his God, his country, and particulary the Committee; yet beneath this manner there was evidently a want of firmness, and I consequently allowed him to have, or prescribed for him, at ten o'clock in the morning, one ounce of brandy, and an hour before his execution one ounce more. And this I solemnly aver was every drop of stimulus that he received during the day of his execution. I positively know it to have been impossible for him to have received from any one liquor in addi-

tion to that which I had prescribed for him, and I know therefore that his whole manner upon the scaffold was that of a desperado."

Durkee charges the trouble to the chief of police, and says: "Truett came in and found out the cause, and steadied him down. They quieted him with valerian."

Doubtless some one out of pity had given him more than he should have. After all, the fault was not a grave one, if it helped the sin-bruised soul through its heavy ordeal.

It was a very hot day. The troops were all drawn up round the square, and there was a multitude of people on the house-tops, every available place of observation being occupied. On Davis street, near where the death-engine was erected, there was a large shed which had been used for storing grain, but was then empty, the top being covered with people. It was old and not very stanch, and all at once down it came with a great crash, bringing all the people with it. Brace was just then making his speech. The soldiers at a little distance were startled somewhat, hearing the commotion but being unable to see the cause. Naturally the first thought of every one was that the vigilants were attacked, that there was a rush upon the prisoners. The military, nominally under Doane, but really under Olney, about eighteen hundred in all, stood at their arms, moving not a muscle, showing not the slightest symptoms of trepidation. Olney came quietly forward at the moment. He glanced along the line; they returned the glance; it was enough.

Finally the signal was given, it being then ten minutes before six; the bell on the roof of the vigilance building was struck, the rope was cut, the traps fell, and at fifteen minutes before six the souls of these two men were sent flying into realms beyond the sky.

Mr Coleman and other members of the executive

committee were summoned by the coroner to testify as to the death of Hetherington and Brace, but most of his questions they declined to answer. Indeed, it was only through courtesy and respect for the law that they answered the coroner's summons at all, for there was then no power in California that could make them attend. They were the sovereign power.

Mr Dows thinks Hetherington not a very bad man, the worst thing he ever did being to kill two men! "Hetherington killed Dr Randall," he says. "He with deliberation killed him; but in other respects he was a good citizen, and never molested anybody. He was not a thief nor a rough character. Brace was a thief and a murderer, and a low man altogether." Yet Brace is spoken of as bright and intelligent, with something of the ministerial look about him, as one of the members remarked. "Hetherington was a gentlemanly, well educated man," says Watkins. "Brace was a desperado of the worst sort."

Hetherington attended carefully to all his business, and the night before his execution carefully filed all his papers. Crary, Bishop Kip, and Fletcher M. Haight were with him nearly all night. He had two chests of clothing, books, and papers in his cell, on one of which Crary was sitting when he dropped asleep, and would have reached the floor had he not been caught by Hetherington, who laughingly said, "Here is one of my terrible executioners falling into my arms asleep!"

CHAPTER XXIX.

ARREST AND TRIAL OF DURKEE AND RAND FOR PIRACY.

> Yet ar these folys ioyous in theyr mynde,
> They norysshe stryfe without ende, them amonge
> And some by falshode can crafty meanes fynde
> By fals delayes theyr mater to prolonge;
> Suche folys drawyth the lawe thus wyse a longe,
> To that intent that by rightwyse iugement
> Transgressours shoulde nat haue worthy punysshement.
>
> *The Ship of Fools.*

ANOTHER important affair which came up during Terry's incarceration, beginning earlier and extending later than the incidents mentioned in the last chapter, was the arrest of Durkee and Rand by order of the United States Commissioner and their trial for piracy.

Though the great dragon, by Judge Terry's bowie-knife argument and the consequent capture of the armories, had received its death-wound, its stinking breath was not yet wholly stopped. About half-past three o'clock on the Sunday afternoon following the memorable Saturday of law and order undoing, while Durkee was sitting on a dry-goods box at the corner of Sacramento and Front streets, serenely cogitating upon the events of yesterday, and chewing the cud of honest content, two deputies of the United States Marshal approached him and read a warrant for his arrest.

It seems an affidavit had been made before George Penn Johnson, United States Commissioner, the day previous, which was the 21st of June, by John B. Phillips, one of the persons in charge of the arms on board the *Julia*, charging Durkee, with his compan-

ions Hutton, Rand, and Andrews, with the crime of piracy on the high seas; "to wit, in the bay of San Pablo, where the sea ebbs and flows, did commit the crime of robbery in and upon a vessel, to wit, the *Julia*, a schooner so called, and upon the lading thereof, and did feloniously and piratically overhaul, board, and rob the said vessel of a large quantity of muskets, of the property of the state of California, and with force and arms did commit other injuries to and on board of the said vessel, contrary to the acts of congress in such case made and provided, and against the peace and dignity of the United States."

The deputies then requested Durkee to accompany them to the United States Marshal's office, corner of Washington and Battery streets. "That is all right," said Durkee. "Put your paper in your pocket and I will go right along with you."

Durkee might easily have resisted, and the Committee would have sustained him in it. "But it struck me like a flash," he says, in his dictation, "that it was best for me to go. Had I refused, the Committee and the United States government would have been at loggerheads." Thus we see there were wisdom and prudence even outside the executive committee. Arrived at the commissioner's quarters, Durkee wrote the Committee informing them of his arrest. Dempster, Dows, and others immediately proceeded to the spot, and told him not to be uneasy. Durkee had no thoughts of being uneasy. There he was kept during the night, every comfort being freely at his disposal. Unlimited bail was promptly offered by the Committee, but the commissioner had no authority to grant bail in cases of the kind. It was at this time, simultaneously with the arrest of Durkee, that the United States sloop of war *John Adams* moored directly in front of Sacramento street—significant, some thought, of federal interference.

During its entire existence, with the exception of Boutwell and certain officers of the United States

courts, whether warranted or not, the Committee rested in the belief that interference, in the shape of actual coercion, would not happen on the part of the federal forces so long as the officers could avoid collision without laying themselves open to the charge of disobedience. This feeling originated in the assurances received that there would be no naval or military force brought against them until orders to that effect were received from Washington. It was with deep regret, therefore, that the Committee involved themselves in a suit with the United States.

The 26th of June the United States Marshal, J. Y. McDuffie, wrote Boutwell, saying that he had then in his custody a prisoner charged with piracy, and asking, in case an attempt was made to rescue him, if the commander of the *Adams* would receive said prisoner on board his vessel for safe-keeping. Boutwell immediately informed the marshal that he would receive the prisoner.

Next morning Durkee was brought into a court-room crowded with anxious spectators, but the case was postponed. According to the laws of the United States piracy was death; any person committing a robbery on the high seas under color or pretence of authority or commission from any person or power was adjudged a pirate, and all who aided piracy or counselled the perpetrators should suffer death. Now might the whole eight thousand hang! Law and order was jubilant. A subpœna was issued by the commissioner for J. R. Maloney to attend as witness. It was placed in the hands of the deputy-marshal, who, as we have seen, on application to the Vigilance Committee was permitted to search their building throughout, but no such person could be found.

Official information of Durkee's arrest was brought before the Executive Sunday evening, accompanied by intimation of danger on the part of his exasperated comrades of attempts at rescue. Whereupon it was ordered by the Committee "that the marshal take the

necessary steps to prevent so gross a breach of military discipline as the rescue of John L. Durkee without orders from the executive committee."

Able counsel was provided Durkee by the Committee. The case was taken from the United States Commissioner's court to the United States District Court, and after several days' discussion the prisoner was admitted to bail in the sum of twenty-five thousand dollars. E. B. Goddard, James Dows, J. W. Brittan, and Samuel Soulé immediately signed a bond for that amount, and Durkee was discharged after one week's confinement.

The action of Durkee in submitting to the arrest was approved by the Committee; and a motion was made by Mr Smiley and carried that Andrews, Rand, and Hutton be requested to submit peaceably to the orders of arrest issued by the United States court.

The men of law were somewhat disposed to play their little prisoner Durkee against the Committee's large prisoner Terry. They did not wish to hang Durkee, though they might be compelled to. The 23d of June Mr Dows reports respecting Durkee, that Messrs Crockett and Duer, appointed by the Committee for his defence, affirmed that there was a strong desire on the part of the law and order party not to press the trial of Durkee, and that in all probability the affair would soon be settled.

Charles E. Rand, one of the associates of Durkee in the capture of the arms on board the *Julia*, was arrested for piracy on the 7th of July. He was immediately admitted to bail in the sum of twenty-five thousand dollars, J. H. Fish, T. J. L. Smiley, N. O. Arrington, and Jules David being his bondsmen.

The United States grand jury on the 3d of September brought in indictments for piracy against John L. Durkee and Charles E. Rand, both of whom were then re-arrested and placed in confinement in the county jail. The Vigilance Committee had before

this adjourned, as we shall see in subsequent chapters. This proceeding of the grand jury coming so soon after the adjournment caused some excitement, and all members of the Committee were ordered to hold themselves in readiness to act when summoned. The exultation of the law and order faction over this ill-timed action of the jury was no less injudicious than murderous. Were it really the desire of these men to precipitate civil war, this was their most direct course. All was now quiet. Even its bitterest enemies were forced to acknowledge that the Committee had done a good work and done it well. They all well knew that Durkee and Rand intended no felony, that they were morally no more to blame for that act than any member of the Committee or than the best man of the community, and they also well knew that the Committee were not made of such stuff as would stand tamely by and see these persons hanged for the doing of a good deed though twenty governments with twenty *John Adams* stood ready to annihilate them. Then would be riot and bloodshed indeed.

These arms, claimed to have been stolen from the state, the Committee seized only that they might not be employed against themselves, and not with intention of using them. Nor were they ever used by the Committee, but were removed from the rooms on Sacramento street on the day of their arrival, and stored in the original packages to be delivered back to the state at the proper time. As long as the governor neglected to withdraw his proclamation it could hardly be expected the Committee would give them up.

The trial for piracy did not take place for several days. On the 11th of September, at half-past one, the case was brought before M. Hall McAllister, of the United States Circuit Court, William Blanding appearing for the prosecution and Mr. Crockett for the defence. It was a most important trial, involving, perhaps, anarchy and bloodshed. The court-room was crowded, and the utmost anxiety was

manifested. The trial, however, was little more than a formality. The prosecution admitted a felonious intent necessary to conviction under the statute, but claimed that this was a felonious taking, and that it was not necessary to show pecuniary gain to convict. The defence argued the usual denial; and at ten o'clock, the court having continued sitting during the evening, the case was submitted. The judge charged the jury that if they believed the prisoners took the arms with the intention of appropriating them to their own use and permanently depriving the owner of them, then they were guilty, but if they took them only for the purpose of preventing their being used against themselves and their associates then they were not guilty.

Huzzah for the law! Justice may yet be had in courts, provided the three parties to a trial, judge, prosecution, and defence, all pull in one direction, and are not over-scrupulous as to technicalities. The charge was most favorably received by the spectators; their rising applause was checked and the jury signed to retire. Five minutes only they were absent, and then a verdict of not guilty. Order could no longer be kept in court. The smothered feelings of the audience now broke forth in loud cheers and clapping of hands. The prisoners were immediately discharged, and were triumphantly escorted to the Committee rooms by the vigilants, amidst the shouts of the multitude. A procession was then formed, and headed by a band of music, this final happy triumph of the San Francisco Vigilance Committee was celebrated by marching the streets and general rejoicing.

Durkee tells his story in the following words: "They did not want to have any hearing of the case, because they wanted the Committee to commit some overt act. I was not at all frightened. The penalty was death, hanging at the yard-arm. They had the sloop of war *John Adams* brought down so as to take me right aboard in case of my conviction. I never had

an idea that I should get aboard there if convicted. The Committee would have looked out for that. They had a great many men under arms at the time. If there had been a jury to try me the same as the grand jury, there would have been no trouble about conviction. The grand jury was a packed jury, anti-vigilance men. The petit jury was a different affair. My counsel had the names of all the jurors before the trial. They knew who they were and all about them. The Committee had the history of every man who came to the country. I knew when the first man got drawn on the jury that I should not be convicted. He was a member of the Committee and his name was Bayleys." All which shows that the law may be warped to fit a good purpose on occasion.

The Committee were weary, very weary, of the whole affair. They had hoped to retire by the 4th of July, and then again after the discharge of Terry, and but for the indiscreet action before the United States district court would have done so. The country needed repose, the Committee needed repose after their months of harassing excitement. All this while the Committee had directed its effort toward the final accomplishment of its mission and toward calming the public mind when the indictments were issued against Durkee and Rand for piracy, and the old sores were opened afresh.

At every step in this movement, from first to last, one cannot but remark the difference in the motives actuating the one side and the other. The sole desire of the Vigilance Committee was to promote the general good; it was peace and morality only they sought, and this in all charity and unselfishness, while the actions of the opposition, lawyers, shoulder-strikers, and officials, seemed governed only by jealousy, hate, and an insatiable thirst for retaliation and revenge. Not that their patriotism so warmed them toward the rights of constitutional government, but

because they themselves had been touched, their conduct questioned, and their misbehavior condemned. They cared not one whit for the state, they cared not one whit for the right, they cared only for themselves.

If their jealousy and hate gave them time to consider they could not but see that their course in this piracy matter was directly opposed to the public good, and must be forever deplored by right-minded men. There was no piracy intended or committed. There was not one of these grand jurymen, officers, judges, or lawyers who for a moment believed that Durkee or Rand contemplated such an act or committed such an act as robbery upon the high seas. They were officers acting under warrant of the then existing supreme powers, and this charge was thus disgracefully brought against them only out of hate and revenge. "Even the judge of the United States district court," says the Sacramento *Union*, "appears to be operated upon by this personal feeling, if we are permitted to make up our conclusions from his past acts."

I see, though they cannot, more of the mob spirit in these officers of the law than in the Vigilance Committee; I see, though they cannot, more passionate display of feeling, less of settled principle, more revenge, less patriotism, more selfishness, less care for the welfare of the state in these zealous guardians of the law, than in those who for virtue's sake broke the law. Under their iron heel of power I see judges crush justice, and officials display a spirit dangerous to the commonwealth, a spirit far more anarchical than that which pervades the deep loyalty which will not suffer our honored institutions to be wholly prostituted.

On the 25th of June, the Committee held confined as prisoners fifteen persons, besides several as witnesses, which subjected them to the expense of a strong guard and other heavy outlays. Three were released

the day before, after signifying their assent to the requisitions of the Committee, which were that they would never bear arms against the Committee.

The cells of the Committee were again emptied of their contents, save only the prisoners Terry and Brace, by the steamer *John L. Stephens* of the 5th of July; on which occasion departed T. B. Cunningham, J. R. Maloney, Alexander Purple, Dan Aldrich, Tom Mullory, and L. Mahoney. Experience constantly developed new forms of doing business. Criminals were now required to put their exile papers in the form of prayers requesting permission of the Committtee to depart never to return. The order granting their prayer reads as follows: that whereas they had "been charged with various offences against the peace and good order of the state, now therefore in case the above-named parties pray to be allowed to leave the country, be it resolved that their prayer be granted upon the special condition that they never return under the severest penalties, and that they be warned thereof."

While Terry was in durance, and vigorous efforts were being made for his release, Mr Dempster had occasion one evening to leave the Executive chamber for a short time. On returning, the sentinel at the door addressed him, calling him by name. In the dim light Mr Dempster did not recognize him, and demanded who he was. The man gave the name of a Methodist clergyman who had been compelled to abandon preaching for farm labor on account of his health.

"What brought you here?" asked Mr Dempster.

"Hearing that the Committee were about to be attacked, I deemed it my duty to come to town and offer my services. I was enrolled this morning and put here upon guard and have been here ever since. Either vigilance watches are very long or else I have been forgotten. At all events my stomach tells me that something to eat would not be out of place." It

is singular into what predicaments duty sometimes calls ministers of the gospel. The truth of this matter was, the man wanted the twenty dollars a week and could earn it more easily standing sentinel than pruning grape-vines; hence the call of duty.

Again at the meeting of Monday morning, the 14th of July, the question of office arose in connection with the increasing power of the association. Political proclivities were manifest in certain quarters, and it was feared that these, as is invariably the case, would tincture justice. The moment a member was suspected of being open to the influence of politicians, that moment his associates lost confidence in him. He was not one of them; no longer a single-hearted, true man. "Whereas the Committee of Vigilance," says the record of proceedings of the 14th of July, "as a body have no political objects whatever, and its members desire to keep free from identification with political aims; therefore, resolved, that no member of the executive committee or other prominent officers of the Committee of Vigilance shall, with the sanction of this body, accept any appointment to public office." Three days after William Rabe was suspended "for having attempted to introduce politics into this body and for attempting to overawe the executive committee, and that his case and all his communications be referred to the board of delegates for their action."

About the middle of August the schooner *Exact*, which had been purchased with the intention to send it in search of Edward McGowan, was sold for the sum of twenty-four hundred dollars, and the money paid into the treasury.

At a meeting of the executive committee, held the 1st of September, a committee of five was appointed to take into consideration the propriety of publishing a complete history of the origin and doings of the Vigilance Committee, with collateral facts and testimony.

"One of the favorite arguments used by the apologists of the Vigilance Committee," says the *Herald* of the 28th of September, "during its reign in this city to quiet the apprehensions of even those who, though they sympathized to some extent in the course pursued by the Committee, yet could not conceal their apprehensions for the future, when executions and banishments and domiciliary visits and arrests followed in quick succession, was that after the work which the Committee organized to carry out was accomplished and the testimony which they had taken before them and upon which their action in every instance was based, was published, everybody would be satisfied. We have waited patiently for some time past for the publication of the entire testimony taken before the Vigilance Committee, but up to the present hour it has not made its appearance. It is true that the testimony taken in the case of Judge Terry has been published, but that is surely not all the testimony that has been taken by the Vigilance Committee. If it was just and proper that the testimony in this particular case should be published, why not the balance? For upwards of ninety days the Vigilance Committee was the *de facto* government of this city. If it ruled at all, it ruled over the whole people of the country—friends as well as foes. At the time, resistance to its mandates by any one individual would be nothing better than foolhardiness, and though every individual in the community was not obliged to formally acknowledge its sway, yet if the contingency should arise, they would have been obliged to do so. Hence it is that every person in the community, no matter whether he may have been a member of the Vigilance Committee or a sympathizer in its action, or its bitterest foe, has a right to demand that he shall have an opportunity to examine for himself the premises from which the Committee deduced the conclusions to which in every case before them they arrived. All we know at the present time—all anybody knows, is that certain individuals have been executed and certain other individuals have been banished by order of the Vigilance Committee, but whether the sentences pronounced in all and every case before them, even admitting for the sake of argument that they had a right to sit in judgment upon the lives of their fellow-citizens, were in accordance with justice, cannot be determined. It will not, we think, be claimed by the most enthusiastic supporter of mob-law, that either the executive committee or the general committee were infallible. To err is human, and if errors have been committed, we, as one of the governed, have a right to know whether these errors are to be set down to that common trait in the human character, or to passion and prejudice. Some of the cases disposed of by the Vigilance Committee had previously undergone investigation in the courts, and in relation to them, it is well known that a great diversity of opinion prevailed. Now it is due to the community that the Vigilance Committee should spread before the public the testimony in these cases, in order that people may be enabled to form an opinion as to how the Vigilance Committee could come to a conclusion in cases in which respectable juries had previously disagreed, and as to whether the additional light thrown on the facts, if any, on the trial before that body, justified that conclusion. It surely cannot be expected that men in whose hearts the faintest glow of a love of liberty remains will be willing to place not only their lives and property but their consciences, in the safe-keeping of a vigilance committee. It cannot be

supposed that by consenting to the establishment of a vigilance committee the people surrendered all right to think for themselves and form their own conclusions upon passing events. But we think we have said enough upon the subject to show that it is a duty which the executive committee owe to themselves—a duty which they owe to the community at large, without distinction, to publish to the world the testimony which they have taken in every single case examined and passed upon by them, or if it would be too expensive to publish, at least to place the testimony where it can be examined by every citizen who may have doubts as to the justice of this sentence or that."

Not less than a score of writers conceived plans, and made efforts toward their execution, of producing a history of the vigilance movements, but all such attempts were incontinently frowned down by the Committee. Foremost among these was Mr Rhodes, who over the *nom de plume* of "Caxton" had done valiant work on the side of vigilance.

The following explains his ideas:

"SAN FRANCISCO, Oct. 13, 1856.

"*To the Hon. the Executive Committee of the Committee of Vigilance:—*

"GENTS: At the request of a number of gentlemen, members of your association, I have consented to write a historical sketch of the Vigilance Committee, provided access would be afforded me to the record of that body for such information as cannot be elsewhere obtained of an authentic character.

"The sketch will not include the publication of evidence, and is not designed to implicate the characters of those who have in no manner been punished by the Committee.

"Please let me hear the result of this application at as early a day as possible. Respectfully, your obed't

"WM. H. RHODES."

The book was not written; the time was not ripe.

CHAPTER XXX.

THE PUEBLO PAPERS.

Nam curiosus nemo est, quin sit malevolus.
Plautus.

One day there came to the Committee rooms an old Mexican, named Tiburcio Vasquez, being in great trouble as to the whereabouts of certain papers alleged to have been taken from him fraudulently by Alfred A. Green, a member of the Vigilance Committee. Now it was not uncommon for old and young Mexicans and others to bring their griefs, of whatsoever kind, and lay them at the feet of vigilance; but it was a rare occurrence for any one to come to the Committee and complain to it of one of its members.

The Vigilance Committee was by no means intended as an association for the protection of criminals, though some bad men sought to shelter their iniquity under the shadow of its wing, and Green was one of these. Tiburcio Vasquez found attentive listeners to his tale. The matter was thoroughly examined, and the Committee came to the conclusion that the Mexican's story was true, and that Green was a bad man.

The facts of the case were these. Through his wife, who was a Mexican, Green had learned that the papers establishing the bound and title of the town of Yerba Buena to her pueblo lands were in the possession of Vasquez, formerly superintendent of Mission Dolores, and keeper of the mission archives. Vasquez lived at his rancho in San Mateo county, some twelve leagues hence.

Most of the papers belonging to the mission, Vasquez had given up to the comandante at Yerba Buena. But it appears that certain old Californians, believing that the English would yet deliver them from the hands of the Americans, and restore their country to the Mexican government, had agreed among themselves to keep back such papers as referred to the pueblo's title, neither to give them to the Americans, nor yet to destroy them.

Almost the entire northern end of the peninsula of San Francisco was at that time lying under the curse of disputed titles. Scores of fraudulent claims, arising often from forged grants, wherein the audacity of the claimant was equalled only by the magnitude of his swindle, filled the courts, and kept real property in a constant state of feverish excitement. Green saw money in these papers, if peradventure he might clutch them. To obtain them by fair means was impossible. The Californians knew their value, and would not part with them. Villainy being determined on, there were two ways of accomplishing it. First, by stealing them outright, though this would be attended with danger of San Quentin when once they were offered for sale; and secondly by stratagem. As the other documents belonging to the Mission Dolores archives had been obtained by order of the government, these might be gained possession of by some such method. But how obtain such an order? Let Green alone for that. He would make it a mandate of the court. That would be better still, as ignorance always stands in awe of written statutes and their ministers. But first he would know somewhat more of the situation of the coveted papers.

Green kept a hotel, attached to which was a race-course, and his place was a favorite resort for Spanish-speaking Californians. Often he had heard them in their cups discuss the wise discrimination of the land commission which was constantly confirming fraudulent titles and rejecting good ones. Among

them was one Sanchez, who seemed to be an authority on the subject; and he was heard to say that from Buri Rancho to the Golden Gate there was not held by the occupants of the land one genuine title. A keen observer might have noticed an increased interest in these conversations manifested by Mr Green, and also unprecedented liberality in the distribution of liquors among his garrulous loungers. About this time Green held a conversation with James A. McDougall, lawyer and politician, upon the subject. In 1852 McDougall had filed with the land commissioners a petition on behalf of the city for the pueblo lands. He had no proof as to the correctness of his premises and proceeding, but he thought he was right. When Green mentioned to him his suspicion as to the nature and existence of the pueblo papers, McDougall was struck with a sense of their importance, and so expressed himself to Green. This fired Green's zeal, and he determined to delay no longer in placing them in his own possession. In his own words of affected patriotism, he "felt a deep and ardent interest for the preservation of the city from the fraudulent claims that were consuming her possessions."

Putting two bottles of liquor into his buggy, he drove over to see Sanchez. Sitting, and talking, and drinking, under the friendly agency of the liquid barriers were broken, and the conversation grew patriotic and confidential. They spoke much about lands and titles, and the doings of the Yankee government in regard to confirming grant-holders in their possessions. Green had a smooth tongue, slightly forked perhaps, and could talk well upon any side of a subject, particularly upon the side on which his interests lay. Finally, as one bottle was already consumed, and the other well begun, Green remarked,

"I think you slander our government in saying it confirms only fraudulent titles."

"No, señor," replied Sanchez. "I am no slanderer."

"But you say that the citizens of San Francisco

have no valid titles to their lands. Is not this a bold assertion?"

"Yes, señor, but it is true. There are the documents not far from here that would amply prove it."

"Where?" eagerly asked Green.

"Why should I tell you?" demanded Sanchez, his suspicion aroused.

"Am I not one of you? Are not my family and my interests one with yours? You do me wrong to withhold your confidence. I understand the Yankees and their sly ways better than you. Perhaps these papers might do us all good service. Tell me, if you value my friendship, where are they?"

"In Vasquez' bedroom, boxed or buried beneath his bedroom floor, I know not which." At that moment the wife of Sanchez entered the room just in time to catch the significance of his words, and, woman like, she made matters quickly worse by trying to better them.

"Pay no attention to what he says," she exclaimed warmly, "he doesn't know what he is talking about."

"It is nothing, señora," said Green. "What Californian is there who in some old torn letters does not imagine he has a mine of historical or statistical wealth?" So saying he warmly embraced the couple and hastened away.

There was now no time to be lost. Sanchez had betrayed the secret of his countrymen, and his wife was aware of it. The alarm would quickly be given and the precious documents spirited away.

Green drove as rapidly as possible to McDougall, arriving at his house after dark. Relating the circumstances of the case thus far, he asked what he should do.

"Get the papers," said McDougall.

"But how?" asked Green. "Will you obtain for me an order of the court?"

"There is no court in session," replied McDougall. "You must use your wits; employ stratagem."

This conversation I gather from Green's sworn statement in court four years after the occurrence. Green states, though his character should be considered in receiving the statement, that he asked McDougall "if he should write an order purporting to be an order from the court to Tiburcio Vasquez to deliver them up, signing the name of the court, would he be justified in such a course?" He then says that McDougall "advised him to do it."

However this may be, Green acted as though he had authority for the perpetration of fraud from some quarter, for he cut himself entirely aloof from conscience, and even criminal decency. Going to a pliant tool of his, Nat Hicks, he said: "Nat, take your pen and write." Nat wrote:

"*Tiburcio Vasquez:—*

"SIR: You will deliver the bearer forthwith all papers in your possession relating in any wise to the title of the city of San Francisco in and to her pueblo lands. And herein fail not under penalty of the law.

[Seal] "By order of the Court."

The seal consisted of a liberal application of wax stamped with a silver half-dollar. As Vasquez could not read, the form was everything, and one was as good as another.

To Vasquez, then, Green accompanied by two or three of his brothers went, and delivering him the order, firmly demanded the documents, adding that Vasquez might consider himself fortunate if no trouble came upon him in consequence of his having withheld them so long. Vasquez was quite frightened, and immediately handed over the papers, but with sufficient presence of mind to demand from Green a receipt for them. Green wrote a receipt, signed it Alfred A. Crane, and gave it to Vasquez; that is to say scores of people read the signature Crane, though Green swears in court that he intended it for Green, but that he did not write very plainly.

The papers thus in his possession, Green did not know what to do with them. Selecting a few of

the most important, he showed them to McDougall. "There are millions in them," said McDougall, "but unfortunately I must start for Washington within two days." What should he do with his ill-gotten plunder? Naturally enough his thoughts turned on the mayor, Charles J. Brenham, to whom he exhibited some of his choicest specimens. The mayor appointed a commission to examine the papers, but being themselves interested in fraudulent titles, this commission reported adversely to Green. When C. K. Garrison was elected mayor, Green tried again. "Come in, Mr Green, come in," said Garrison, when the patriot with the city's destiny under his arm rapped at the mayor's office door. "Let us take a bottle of wine together." Green had spoken to Garrison about the documents, and the latter now turned over with evident interest those placed before him. Finally raising his bovine head, he fixed on Green his bovine eyes, and opened his bovine mouth:

"These are very valuable papers, Mr Green, very valuable. It will be the duty of those who guard the city's interest some day to place them all on record, so that the city shall have her rights in the matter, her rights, Mr Green. I would take the initiatory steps myself, Mr Green, but, pardon me, Mr Green, the fact is, I hold a trifle in adverse titles myself, just paid fifteen thousand dollars for a Potrero title, Mr Green."

"Yes," replied Green, "but you must know that those titles are fraudulent, valueless, if these papers are shown."

"True, true, Mr Green. Let me sell some property; let me get rid of these interests, and then I will take a hand with you and prosecute the city's title to the pueblo. I agree with you entirely that it is the duty of the officers of this municipality to look well into the matter, protect the city's interest, and that, too, sharply, Mr Green, sharply, sharply. Besides there's money in it, Mr Green. Good-day, sir."

Poor Green! His plunder would not sell. He

wrote to the press, but no newspaper would print his articles. It was too long and laborious a fight for any journal to take up on its merits. It would be unpopular, for everybody was interested more or less in fraudulent titles, not knowing them, in most instances, to be fraudulent. There was neither money nor popularity in it; who was foolish enough to look for abstract good in a newspaper man more than in any one else? The lawyers, too, were against him; the city would not pay them for their wily arts like a multitude of swindled and swindling citizens. He tried lecturing, but he was unlearned and timid, and the public did not want to hear him.

He told the people at Musical Hall the 21st of April, 1856, that the Hispano-Californians had always cherished the belief that Santa Ana would with British men or money regain possession of California, in which case by means of certain documents, about five hundred in number, which they had retained in their possession, the original occupants would be reinstated in their rights, and their lands given them back according to ownership before the coming of the Americans. This led the Californians, he affirmed, to look with indifference on the doings of the land commission. Their documents they had buried at a place thirty miles from the city, but he had, purely in the city's interests, obtained possession of these, as he called them, lost archives, by means of which he would be able to establish the city in her pueblo title. The papers told him, said Mr. Green, that a pueblo, and only one pueblo, had been established here, and that pueblo at different times had been known by different names, such as San Francisco de Assis, Mission Dolores, and Presidio. For his untiring energy, great expense, and patriotism he merely wished a trifle, two or three hundred thousand dollars. For the rest an approving conscience would be his reward.

Thus matters stood when the attention of the Committee was brought to the subject by Tiburcio Vas-

quez. There was ample room for action. First, Green was a member of the Committee, an association formed for public benefit and not for public plundering. Secondly, Green was a sharp practitioner, playing fast and loose with rascality and the city's interests. Thirdly, it was one of those cases that the law never could or never would reach; there were too many Garrisons and Brenhams in office. The Committee felt bound to undertake the righting of this wrong, although they fully realized that it would prove very laborious, very expensive, and that for a time their only recompense would be ingratitude.

If placed within reach of the city, and of those claiming under the city, it would establish the city's right to all those outside lands claimed under the old Mexican pueblo grant. If lost or suppressed, forged titles, in many instances, would hold, and honest men be cheated. Beside which, there was much litigation and many feuds, and pitched battles which these papers would peaceably determine.

Green had brothers more or less implicated with himself, one of whom, John L. Green, was likewise a member of the Vigilance Committee. The 13th of July the Committee ordered the arrest of the whole fraternity, Alfred A. Green, Henry Green, Robert E. Green, John L. Green, Benjamin P. Green, and Daniel Green, charging them with high crimes, namely, of having in their possession certain papers said to be sufficient to establish the fact that San Francisco, at the time of the American conquest, was a pueblo or incorporated town. These documents Alfred A. Green, assisted by his brothers, was holding as a sort of black-mail over the title to city property, offering them alternately for sale to the city, and to claimants under spurious grants, such as the Bolton and Barron, Limantour, Potrero, and other adverse titles. At the Musical Hall meeting, some seven months previous, a committee had been appointed by the citizens to examine the nature and genuineness of the papers, which

committee reported favorably to the owner, Green, and stated that they could be bought for fifty thousand dollars. The reputed wonderful discovery of the papers and the manner of the whole proceedings connected with them seemed so like a swindle that property holders held back, so that from lack of confidence the scheme fell through, and Green renewed his efforts to effect a sale to adverse claimants whose interest it was to cloud the city's title for the purpose of extorting black-mail from occupants. Alfred had been a member of the legislature, which added nothing to his respectability.

Long before daylight next morning a detachment of vigilants, some thirty in number, half of whom were mounted, and the remainder in two furniture-cars and a barouche, were dispatched to the mission to make the arrest. The Greens, roused from their morning nap, were requested to dress and follow without waiting for breakfast, which they incontinently did. The party arrived at the Committee rooms about six o'clock, and three of the brothers were at once accommodated with cells. That same night fifteen persons, part of a gang organized for evil purpose, were arrested by the vigilants and confined at the Committee rooms for disturbing the peace and attempting to break up the citizens' mass-meeting.

By this arrest the men were secured, but not the papers. The same day ten vigilants were sent to search Green's house and the house adjoining for the documents, but their efforts proved unsuccessful. Meanwhile Alfred A. Green was brought before the Executive and made to confront Tiburcio Vasquez, each of whom made a sworn statement before the Committee. Daniel Green was also brought before the Committee and identified as one of those who came with Alfred to demand the papers. On the 15th Daniel and Benjamin Green were discharged from custody upon giving their parole to come at the bidding of the Committee.

Green at first was badly frightened, thinking he would be hanged; but when he learned that he was safe from that punishment he became defiant, and the Committee hardly knew what to do with him. Some regarded his crime as equal to or greater than that of murder, but unfortunately their regulations forbade their hanging him. He had kept the papers under his bed jealously guarded. When arrested they were not to be found by the Committee. Now Green refused to disclose their whereabouts; nor did the Committee feel disposed to take them from him by force and without remuneration, even though he had obtained them fraudulently.

At length Green was brought before the Executive and asked what he would take for the papers. He replied fifty thousand dollars. He was sent back to his cell until his ideas should be modified. The 28th of July the committee appointed for that purpose reported that Green would select from the Executive two of their number whom he knew, to whom on his release from custody he would deliver the papers without reservation, and that said sub-committee should hold the documents until Green was remunerated for their surrender, either by the city or by those interested in the city's title. Meanwhile Green pledged himself not to negotiate with any person adverse to the city's interest, and that he himself would attend to raising subscriptions for the payment of the papers, which sum should not exceed twenty-five thousand dollars. At any time within twenty days after the possession of the papers the Committee should have the right to take them for the sum of ten thousand dollars, or reject them.

Further than this the papers were to be submitted to the city attorney, and if pronounced by him of no more value than official documents appertaining to the former government, they should be surrendered to the city unconditionally. As a condition of the agreement Green exacted that the Committee should place in his

possession the forged order and receipt obtained by them from Vasquez, as being of no particular value to them, but of some to him.

Evidently Green repented of his offer, for the moment the Committee attempted to carry it out he evaded the issue at every turn. An armed escort was prepared to attend him to his house and bring back the papers, but to this he objected. Conveyed thither in a carriage he pretended great displeasure at the manner in which his family had been treated by those sent to search his house, and he would submit to divers transformations and annihilations before he would give up the papers at any price. So back to his cell he was carted, there to think further on it.

Another agreement was then entered into with Green, which was that the Committee should take the papers and be allowed forty days within which to pay twenty-five thousand dollars, or they could take them within ten days for fifteen thousand dollars. This last proposal was made the 31st of July.

Finally the Committee concluded that Green might be justly entitled to the sum of twelve thousand five hundred dollars, and this amount the holder of the documents agreed to take. The money was raised from voluntary contributors who trusted the city to refund it them. The money was paid on the 27th of September at the banking house of Abel Guy. Certain creditors of Green having received intimation that money was to be paid him then and there, watched the premises with writs of execution, and when Green came out and dumped his bag of coin upon a cart they pounced upon it and made him disgorge, greatly to his discomfiture. Such is the reward of rascality.

The following appeared in certain journals as an advertisement on the day of the date mentioned:

"TO THE PUBLIC.

"The Committee of Vigilance have purchased from Alfred A. Green for the sum of $12,500 the pueblo papers, which establish beyond doubt the city's

right, against all adverse claims, to property far beyond the Vallejo line, the limit fixed by the United States Land Commission. They have secured the able services of Hon. S. W. Inge, late United States district attorney, to use this testimony in the United States district court, where the city's claim is now pending; and also, should it become necessary, to attend to the case in the United States supreme court.

"The purchase money has been advanced exclusively by members of the Committee of Vigilance, with the understanding that the amount would be repaid as soon as collected from the parties the most directly benefited by the acquisition, who are deemed to be the proprietors of land covered by the Limantour and Bolton and Barron claims, and which, according to the county assessment of the present year, represent a value of $5,673,000. Upon this amount it is proposed to levy a tax of one half per cent, or $28,365, in case the whole should be collected; but considering the number of those who have already procured the adverse title, it is supposed that not more than two thirds will be realized, an amount not more than sufficient to reimburse the present advances and defray the legal and contingent expenses of the suit. Should, however, any surplus funds remain on hand, the same will be given to the orphan asylum of this city. It is unnecessary to repeat that the acquisition of these papers has been made by the Committee solely for the public good. The undersigned have given and will continue to give their services gratuitously, and appeal most confidently to the property-holders above mentioned, to aid them in the good work by promptly paying the small sums asked from each. Parties empowered to collect will be provided with the written authority of the undersigned, under the seal of the Committee. Copies of the pueblo papers will be immediately filed in the United States district court, and the originals will remain for safe-keeping in the possession of the undersigned, until they are required in court.

"In behalf of the Committee of Vigilance:

"JULES DAVID,
"GEORGE R. WARD,
"T. J. L. SMILEY,
Special Committee."

"*San Francisco, Oct. 15, 1856.*

The 13th of July, 1857, John L. Green and Daniel Green brought suit against the Vigilance Committee, mentioning several of the executive committee by name, each asking fifty thousand dollars for divers infelicities arising from their arrest and imprisonment by the Committee. Failing in this, the 16th of July, 1860, John L. Green again appears in court against William T. Coleman and others, asking as usual fifty thousand dollars. Jonn Nugent appeared in court as attorney for the plaintiff. After a four days' trial the jury gave him, or rather themselves, as it just covered

their fees, one hundred and fifty dollars, throwing the costs of suit upon Green.

Thus closed the famous Green affair. We note the presence of the *Herald's* editor in this suit, which but for him, perhaps, never would have been brought. How deep the pools of this man's dark unrest which years of sunshine could not assuage! The embers of the past he never ceased to rake, if happily he could find some spark of malice which might be kindled into a flame. For over two hours at the close of this trial he pleaded a lost cause. In this, his maiden speech before a San Francisco jury, he indulged in some wild remarks which may be accounted for only upon the hypothesis that they were begotten of revengeful longings. "We are on the eve of great events," he said; "before twelve months will pass away it is probable this union will be dissolved. It is probable that internecine war will rage in this confederacy within twelve months, that the union will be disrupted, broken into fragments, and that we will have to form ourselves into an independent government upon the Pacific coast." Since the collapse of his journal incident to the withdrawal of vigilant patronage, in the science of prognostics Mr Nugent has shown himself an adept. To be sure of knowing what would happen, in political circles particularly, and as to the evil which would befall his enemies, we have only to reverse his opinion to reach the truth by the most direct route.

CHAPTER XXXI.

FINAL ADJOURNMENT.

"I would give my life for such a moment, such a day," said a carpet courtier to Cromwell as he was entering Whitehall to be made Lord Protector. "A fine show, no doubt," replied the great Oliver, "but there would be a grander display than this if I were to be hanged."

AGAIN on the 8th of August the attention of the Executive was turned toward adjournment. On that day a review was made of what had been done and a survey of what was yet to be done, and after full discussion they concluded that by the 18th they might announce the termination of their labors for the 21st, on which day there should be a grand parade of the entire body and after this a review of the troops by the Executive.

They would retire from their labors publicly. They would dismantle their fortress and abandon their military quarters, they would cease their public and palpable existence, but they would not disorganize. The outward manifestation of popular power should disappear until again invoked by necessity; but its subtile essence should always remain in the hearts and heads of the people, ever ready for instant expression. Ten days would thus elapse between the declared intention and its public announcement, during which time all business should proceed regularly as hitherto, and expenses if possible be brought down to one thousand dollars a week.

Arrangements for the final parade should be under the direction of the marshal, and a committee of five delegates, and three from the Executive. After the

21st the executive committee should hold sessions three times a week; and above all the strength of the association should be applied to the raising of money for the complete discharge of their heavy obligations. Though in the midst of arrests, fulminations, and expatriations, the cells of Fort Vigilance were now nearly empty, and the black list still needed some revision.

Mr Dempster, Mr Smiley, and others were appointed a committee to prepare an address from the executive committee to the general committee of vigilance on the occasion of its retiring from active duty. The plan of adjournment was laid before the delegates at a meeting of that board held the 13th, and was fully approved; the 18th of August, instead of the 21st, being finally fixed as the day of demonstration. The gunny-bag barricade was taken down the 14th. At the Saturday afternoon meeting of August 16th the rooms of the building were ordered thrown open to the members of the committee, their friends and families, the next Thursday and Friday, the 21st and 22d, from ten o'clock A. M. till five o'clock P. M. of each day, notice of the same to be posted in the building and published in the papers. A committee of five was placed in charge of the reception.

For three months this organization had been in active operation, during which time it not only retained the support originally given it, but had gradually increased in strength and in the favor of the people, until its enemies even felt their maledictions upon it to be infinitely more damaging to themselves than to the organization.

The predictions of the law and order party concerning the evil effects which were to follow, fell to the ground. There was no reaction, no domineering mobocracy, no attempt to seize the reins of government, no intoxication incident to possession of supreme power.

The Committee determined not to disorganize, but

to adjourn *sine die*. The general organization would be kept up complete, and all members were to hold themselves, as hitherto, instantly subject to the call of the executive committee. Each company was to continue its independent organization, and the executive committee were to retain their rooms with a few officers constantly on duty, where they would meet at stated intervals and consult as to the welfare of the city.

The truth of the matter is, the Committee were as much a living organization after adjournment as before. At an Executive meeting, held the 23d of January, 1857, I find the following motion made and carried: "That the grand marshal be requested to report to the president of the executive committee the number of men he could collect within an hour's notice in case of emergency." Marshal Doane's reply at a subsequent meeting was that "any number of men could be relied upon in case of emergency."

Meanwhile P. J. Hickey was notified to leave the state; and it was ordered, as late as the 21st of August, that notice should be given through the public papers to James Cusick, James Thompson, *alias* Liverpool Jack, and James Hennessey, who had fled to the interior, that they might depart unmolested by the steamer of the 5th of September, but that failure to avail themselves of that privilege left them under the death ban should they afterward visit the city.

The 19th Jacob Ritchie was discharged. It was likewise resolved on that day by the Executive, "that if J. W. Bagley is found in San Francisco after the 20th inst., he will be immediately executed without trial."

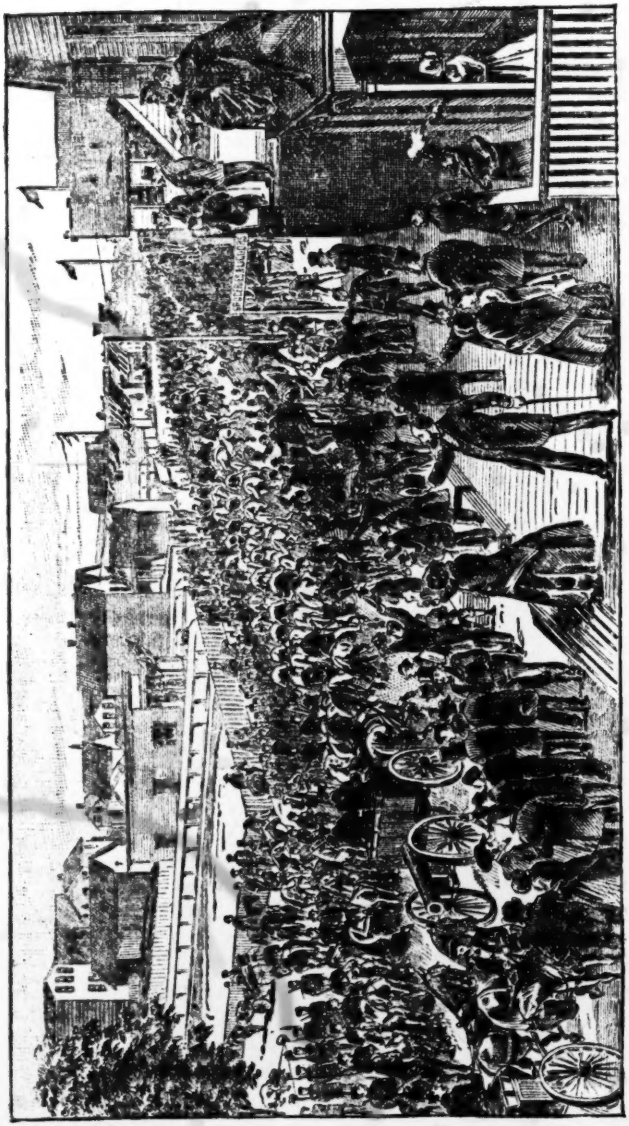
Fear of the federal authorities could not be imputed to the executive committee, or fear of anything, for the present release of Terry, or for their adjournment. For President Pierce had just before announced that until the legislature of California should meet and request federal interference, he should not interpose;

or, in other words, until his personal affairs were arranged, and his party interests looked after, the people of California could cut each others' throats to their hearts' content. Patriots of the Pierce order are not greatly given to sacrificing themselves for the welfare of their country.

This final demonstration was indeed an imposing affair. It was, of the whole crusade, the one single public boast. Coming at this time it was a wise and proper movement. It spoke in deep impressive tones the happy consummation of unhappy needs. "Behold our promise," it said to assembled San Francisco, "the outgrowth and not the arbiter, of our performance. We have fought the good fight; we have kept the faith. Not in shame and discomfiture, but in the pride of success, we present ourselves before you this day. Not besmeared and broken, but unstained and brightly polished, hand we now the tablets of the law to our appointed ministers of the law."

The people at large underestimated the strength of the Committee. Among their opponents it was the talk that their battalion drills were the same bodies of men, over and over again; that it was the desire of the Committee to appear stronger than it really was, and to present the same forces under various guises. The fact was, hitherto the Committee cared nothing for appearances so long as it had the real strength; but now, to show how fully, how heartily the people were with them, how the movement was the people, the law, the government, and no clique or cabal, it was deemed best upon this joyful abdication to place themselves before the public in their true appearance.

Hence, preparatory to adjournment, a grand review and military parade was held on the 18th of August. An invitation was issued by the executive committee of 1856, through the grand marshal, Charles Doane, to Selim E. Woodworth, president of the Vigilance Committee of 1851, and through him to all members of that committee to witness and take part in this parade.



Counting their companies there were four regiments of infantry, two squadrons of cavalry, a battalion of artillery, a battalion of riflemen, a battalion of pistolmen, and a police battalion. Of course some, from various reasons, were not present, yet there were over six thousand men in that triumphal march.

It was a day of universal rejoicing; it was the celebration of a new declaration of independence, a day of thanksgiving for the deliverance of the city from a reign of criminality, a day of honor to the patriots who had so nobly vindicated the integrity of the people. This was the end of the reaction, the conclusion of one of the grandest moral revolutions the world has ever witnessed. Nothing occurred to mar the triumph of the day. About ten o'clock martial music was heard in various quarters of the city, where companies were formed in line. Members of the companies were in citizen's dress, some attention, however, being paid to uniformity—black pantaloons, black frock-coats buttoned to the neck, white gloves, and glazed or cloth caps prevailing. On the left lapel of the coat was worn a white satin badge denoting the company. Most of the officers were mounted. Bouquets adorned the muskets. The streets were crowded with spectators, flags floated from hundreds of houses, and gorgeous decorations with appropriate mottoes were stretched across the streets at several points.

Third street was the locality appointed for review, and thither, about twelve o'clock, were seen infantry, cavalry, and artillery congregating and forming into line. The troops consisted of a battalion of artillery, Colonel T. D. Johns; Light Artillery Reserve, Lieutenant-colonel J. F. Curtis; squadron of cavalry, Major Frank Baker; battalion Citizens' Guard, Major George Watson; four regiments of infantry commanded respectively by Lieutenant-colonel John S. Ellis, Colonel J. B. Badger, Colonel H. S. Fitch, and Colonel F. J. Lippitt whose regiment included the French Legion under Major Villaseque. Besides

which were three rifle companies attached to regiments as flank companies or skirmishers; also a company of pistolmen under Captain E. B. Gibbs, a battalion of police under Captain R. B. Wallace, and enrolled members in carriages, on horseback, and on foot. It was a grand sight, these "traitors under arms," as the *Herald* stigmatizes them. Third street was then open only as far as Brannan street. The companies in line occupied the whole of Third street, and a portion of Brannan, the right resting on Market street. The troops were under command of Brigadier-general James N. Olney, who appeared mounted on his white horse, which had been conspicuous in every post of danger throughout the entire campaign. Orders were then issued by the general commanding to open ranks and prepare for review. President Coleman and Grand Marshal Doane, accompanied by the executive committee and board of delegates, all mounted and uncovered, then rode down the line. The review over, the troops wheeled into column. The grand marshal and staff led off, and were followed by the president and the general commanding with his staff. Then came the artillery in four companies with fifteen mounted cannon. In the rear of the artillery was a representation of Fort Gunnybags on wheels, consisting of a framework covered with canvas on which was pictured the sand-bag breastworks of Sacramento street. Five painted cannon ready for immediate action looked through as many pictured loop-holes.

Behind this fort followed the executive committee, mounted and riding three abreast. Next were two companies of dragoons; after which the medical staff, consisting of about fifty surgeons. Representatives of the first Vigilance Committee then followed with wagon and banner, after which were the four regiments of infantry, squadrons of cavalry, battalions of citizens' guards, pistolmen, and vigilance police. Thus six thousand men before thrice six thousand witnesses demonstrated on that day their devotion to

social morals and good citizenship. In this manner they marched through the principal streets of the city amidst the enthusiastic cheers of the people. All along the line of march flowers were showered upon the men by mothers and daughters whose hearts were with their own and the city's saviors.

After the parade the Executive met and adopted the following resolutions:

"That the executive committee have noticed with the utmost pleasure the unanimity of feeling and correctness of deportment displayed this day. That the grand marshal be requested to convey to the officers and their commands the high appreciation entertained by the executive committee of the proficiency of their military evolutions and the zeal they have at all times evinced in the performance of their arduous duties. Also that the chief of police be requested to express to the officers and members of the police department the high appreciation entertained by the executive committee of valuable services so zealously rendered by them."

I cannot resist the temptation to give a specimen of the bark and bray line of argument still kept up by the *Herald*, as displayed in its account of these ceremonies. "Grand funeral procession of vigilants," it begins. "The last agony is over. The committee of traitors, who have so long disgraced themselves and the city of San Francisco, have adjourned in a blaze of fireworks. Their past career is written in lines of blood, and the pen of the honest historian will hand them down to posterity with all the shame and infamy they have heaped upon republican institutions." After half a column or so of like preliminary it begins its graphic account thus: "The day broke dull and gloomy. It was the anniversary of the traitor Benedict Arnold. A cold insinuating mist hung like a pall over the city, and the light of God's countenance, the glorious sun, appeared only at intervals and then quickly retired, as if unwilling to shine upon the disgraceful scenes of the day." Of the review it says: "The descendants of Guy Fawkes, the modern witch-burners, the strangling conspirators of the anointed Committee of Vigilance, composed of all the decency, all the honesty, all the virtue of a San

Francisco population, having armed themselves with condemned muskets and an assortment of pistols and sabres, marched down in divisions to Third street, where the sorry farce of a review was gone through with under the critical supervision of Field Marshal Charles Doane. Field Marshal Charles Doane was mounted on a horse encumbered with an extraordinary amount of military trappings, wore a black frock-coat, black pantaloons, a white shirt, a glazed cap, was surrounded by an invoice of pink and white ribbon, wore spurs and leather boots, carried a sword in his hand, and conducted himself with so much modesty and propriety that none but the practised eye could ever have recognized in him one of the first military men of the age." But enough. Two or three doses such as this administered daily for three months shows to what extremity the advocate of a cause is reduced.

But the richest of all is the following from the *Herald* of the 21st of August on a proposed ball to be given that night to the executive committee. "A Grand Ball of the Stranglers!" it is headed. "Star Chamber and the Canaille Cheek by Jowl!"

"We have just received intelligence from our special mesmeric correspondent of one of the most remarkable festivals that has ever graced the page of history, to come off this evening at Musical Hall. From the lights before us it seems that in a city which formerly was an appendage of the United States, but which will now form the nucleus of an incipient higher law republic, a heterogeneous mass of humanity has been engaged for the past three months in the laudable undertaking of turning the American Constitution topsy-turvy, and disgracing the enlightened century in which we live with scenes of folly, madness, violence, and horror, such as would only have been expected to be tolerated in the Cannibal Islands or in pandemonium. After having hanged four of their fellow-beings without any of the forms of law or justice, after having been the cause of the horrible suicide of two of the miserables who were confined in their blackhole of Calcutta, after having banished a score of bad men who contrasted favorably with many of their own pious and saintly Josephs, after having incarcerated a judge of the supreme bench and held him for six long weeks in durance vile, with the mummery of a trial going on and the muttered threats of the *chouanneurs* thirsting for his blood, his daily comfort and his nightly dream, after having outraged all common decency and courtesy, violated every social right guaranteed by the compact of that constitution which was conceived in patriotism, baptized in loyal blood, and nursed

in the hot-house of the world as the most beautiful and delicate plant of liberty that has ever flourished in the sunlight of God, after having committed this long catalogue of crime and infamy, enough in all conscience to make them, for all time to come, hang their very heads in shame and humbly and penitently seek pardon and forgiveness, what a fitting finale has filled the cup of their insane outrages! Will it be believed by those who are to follow our footprints in the sands of time that the master spirits in this memorable epoch of anarchy, the privy councillors in this crusade on freedom, had the impudence to advertise their infamy and to hold a mutual admiration festival in the shape of a ball? The fact is nevertheless patent. We were shown yesterday a ticket to a ball to be given this evening to the executive committee of the vigilance saints, at Musical Hall. The executive committee, with a consideration which is truly refreshing, and for which the plebeian flunkies of the immaculate body can never be sufficiently grateful, have put the price of tickets down to five dollars per head. This is right, it is democratic. Heretofore there has been an aristocratic, an impassable gulf between the Dives of Front street and the Lazzarone of the Committee. The vigilance millennium has at length come. Now the eagle and the buzzard will lie down side by side, the lion and the lamb will feed out of the same dish. There is balm in Gilead for the puppets with a vengeance. For the moderate sum of a half-eagle they are graciously permitted to come within the sacred presence of the Lord's anointed. We are not in the confidence of the Committee and cannot, therefore, say what objects the Star Chamber have in view, but it is reasonable to suppose that they are hard up for funds and have adopted this very ingenious method of raising the wind. We were much surprised that in a body embodying so much of mathematical genius, so great a knowledge of the science of humbug, the idea of exhibiting an anatomical museum has never suggested itself to them. What an immensely profitable investment it would have been if, instead of handing the dead bodies over to the coroner to be buried at the expense of the tax-payers, they had engaged the services of some expert artist and had the carcasses exhibited in imitation of Madame Tussaud's chamber of horrors.

"To illustrate our idea: They might have had the ghost of Casey in a sitting posture engaged in stuffing one of the identical ballot-boxes that excited so morbid a curiosity in the fashionable rum-mills of our city. Cora should have been placed in a standing position on a platform, with his eyes bandaged, listening to Casey's speech, and a miniature representation of the reds with the condemned muskets at his feet. Hetherington would have appeared to advantage at the identical moment when the executioner, of black cambric memory, put the fatal cap over his head to prevent any remarks that might have initiated the dear people into the mystery of Vigilance Committee jurisprudence. Brace would have been an immense card; his figure, as he appeared under the influence of the bad brandy so liberally administered by the saints for the purpose of counteracting any moral effect that might be produced by the dying speech of a man of Hetherington's nerve, illustrated by his classical remarks at the moment of execution, would readily have commanded an extra bit, and thus added largely to the depleted puritan treasury. Sullivan should have been presented sitting on his lonely cot in his dismal

cell in a meditative position; time, midnight, and the clatter of the hammer and the grating of the carpenter's saw suggestive of an execution. A wax figure of a sentinel in front of his prison-door, who, by a species of ventriloquism, might be made to speak with profane levity of the probable end of the criminal, and a knife lying opportunely at his side, would have made up a very effective tableau. This happy idea of an anatomical museum not having suggested itself to the fertile ingenuity of the stranglers, they have adopted the less classical but more social plan of a ball.

"This evening will be a gala night in the memory of the modern puritans. There will be music, bright lights, and the fair forms of the loveliest of God's creation will float around in the misty mazes of the waltz. Let the dance go on, let joy be unconfined, but if there is a conscience in the breasts of the men who will grace the occasion this evening with their presence, dressed in glossy broadcloth and white kids, if they come within gunshot range of Shakespeare's idealization of Macbeth, there will be many an air-drawn dagger floating before their mind's eye; and perhaps the ghost of a Casey or a Hetherington may intrude upon the hilarity of the occasion, as that of Banquo did upon the peace of mind of Macbeth at the royal banquet. Instead of ornamenting the room with the vote-yourself-a-medal banners, or mutual-admiration flags, we would suggest that an artistic representation of Casey and Cora dangling in mid-air with the motto of Pop goes the weasel, should be placed at one end of the hall. A representation of a scaffold, containing wax miniatures of Hetherington and Brace, with printed copies of their last words and dying speech, would be a fitting ornament to the opposite end. In the centre of the floor, the whitewashing artist of the association, who so immortalized himself in the funeral celebration of Monday last, might very appropriately construct a miniature representation of Fort Gunnybags, with full-length figures of the valiant and heroic sentinels who were so considerately assigned the honor of guarding the precious gunnies during the reign of terror.

"We make no doubt the room will be ornamented with the cannon and guns stolen from the state authorities, and we are informed upon what we consider reliable authority that to add to the interest of the occasion the Committee can obtain the hat of the ubiquitous McGowan, which, inasmuch as that enterprising individual has given the all-seeing eye of vigilance the slip, should be enveloped in an invoice of crape. A score or so of death's-heads, a bale of American flags with the Union down, hung promiscuously around, two or three dozen sanguinary individuals dressed in black cambric gowns à la Hetherington's executioner, a few bales of rope, and an assortment of slip-nooses, some specimens of patent trap-doors, and the knife with which Sullivan committed suicide; a lock of Cora's hair, and one of the front teeth of Brace; together with printed biographical sketches of the executive committee, would add much to the general effect of the *tout ensemble*.

"The music should commence with the Rogue's March, to be followed by the Pirates' Chorus from the *Enchantress;* and the entertainment of the evening should wind up by the judge advocate singing Down among the Dead Men."

I can do no better here than to give in full the address of the executive committee to the general com-

mittee of vigilance on their retiring. How different in tone and character from the ribaldry of their opposers:

"GENTLEMEN: On the occasion of your adjournment the executive committee deem it proper to make the following remarks:

"A few months since, grief and despair weighed gloomily upon an oppressed people, unpunished crime was in the ascendant. For years our citizens had endured the great evils existing in their midst, and had combated them by all the ordinary remedies prescribed for a republican people. The redress looked for in elections and jury-trials was used without success. These remedies were not neglected, but by the combination of fraud and violence they were rendered of no effect. The ballot-box was dishonored, the laws were perverted, justice was prostituted, government was corrupted. The exercise of free speech and the guardianship of a free press were attended with peril; life was unsafe upon the public highway.

"The state of public affairs required that ordinary remedies and legitimate measures should for a brief period be laid aside. The necessity was anomalous, the exigency great. Measures which could not be justified in well ordered and well governed communities, became defensible and just. It was requisite that a prompt and overwhelming assault should be made by the people upon organized and dominant crime. The occasion came; the public exigencies demanded of you, as representatives of the great majority of the people, that you should assume, to a limited extent, the administration of justice. Similar exigencies have occasionally arisen among a free people; but none furnishing a parallel to this, or requiring so imperatively a vigorous and united action of the public. A stern and awful necessity demanded the employment of extra-legal and extra-judicial measures for public relief, supported and protected by an armed militia drawn from the bosom of the people. It was the last of a long-suffering and insulted people—free in name, but not in fact. The fountain of endurance long filled to the brim, at last overflowed. None regretted the necessity more than yourselves. No people on the face of the globe were more strongly opposed, on constitutional grounds, to the reassumption of any portion of those rights and duties which, residing in the people, are delegated by them to their servants. In the rectitude and loyalty of your republican principles you are conscious of a devoted love for and adherence to the true spirit of government and law. In the assumption of power, you did but assert and use the rights constitutionally inherent in the people as declared by their majority. You have performed certain specific acts which were requisite to vindicate justice and the rights of an outraged people, and to strike terror into the ranks of crime. You have exposed the machinery by which your liberties have been subverted, and which has rendered the election franchise a mockery, and the administration of justice a farce. You have originated and brought to active maturity the great revolution which will result in social and political reform. The great work which you have commenced has attained to that degree of progress which will require at your hands in the future only the honest and watchful efforts of citizens in the ordinary prescribed methods of action to consummate the desired and triumphant end.

"Fellow-members, you have given your time, your money, your labor, and your earnest thoughts to the work. You have made many and great sacrifices. You have thrown yourselves into the breach in this contest, and whatever of jeopardy or loss, whatever of opprobium or enmity could possibly ensue, you have freely hazarded for the public good. All this you have done without the possibility of private gain, without a solitary object of personal advantage, looking only for your proportion of the public benefit. You belong, generally, to those classes of citizens who have rarely filled, and have never coveted office. You are the industrial classes, men of occupation and responsibility. Among you are the larger majority of those citizens of San Francisco who are anchored here by family ties, by homes and households. A majority of your opponents, consisting of the most bitter and hostile, have no trade but politics or worse, and have but little at stake in property or families. They affect not to understand the sincerity and self-sacrificing principle which has led you to labor and endure so much to effect public reform. To most of you office is no object and would be a burden. Your interests would suffer by its acceptance. You have endured much of bitter enmity and unblushing misrepresentation. While many of our most respected citizens have differed from you on abstract principles, it is undeniable that a combination of the worst and most dangerous elements in society has been raised against you. False issues have been attempted by which to stigmatize you as partisans and fanatics, as traitors. You have been falsely accused of harboring political enmities, religious prejudices, sectional dislikes, hostility to foreigners, and finally, of indulging political aims. The seventh article of your constitution, adopted at the commencement of your existence as a body, effectually forbade all issues of sections, nativity, politics, or creed. A motto on your seal disclaims such issues, and to this hour the integrity of that constitution and that motto has been preserved inviolate, even against imputation. You are of every religious creed, of every political bias, of every enlightened nation, and of every state of our beloved Union. It would be utterly impracticable to form a reliable conjecture of the predominant political or religious sentiment among you. We therefore earnestly counsel you, as vigilance men, to avoid all indentification of the Committee's name and interests with any political party or policy. Do your duty faithfully, each man in the party of his choice. Let every man throw his vote. Let every man cherish and protect the palladium of the people's rights and liberties. Protect the purity of the ballot-box—let it never again be polluted. See to it that the elections are peaceable, that the lives of freemen are not perilled by ruffians at the polls. This is your work. Let the question be regarding every candidate, Is he capable? Is he honest?

"Since you commenced your labors there has been a very great improvement in the administration of law and justice by the authorities. Crime has been more generally and more severely punished. The recent annulment of the fraudulent elections, and the indictment of the offenders in the young and almost helpless county of San Mateo, so recently separated from ours, is a triumphant and promising result of the great movement by the people. Let the example be copied. Exclusive of the hostile demonstrations against your own body, good order and a sense of security have prevailed to a greater ex-

tent than ever before in our midst. Men have not feared to express their honest sentiments in every peaceable manner; the press has been untrammelled; riot has been prevented, or has been easily suppressed. Some advantage has been taken of your moderation, but by your discretion and forbearance the great excitement of the past three months has subsided, and its great events have been accomplished without the consequent loss of a life by collision.

"The aggregation and discipline of a large military force was a measure of prudence and necessity. The peace and safety of the community required it. Without its overwhelming power, a bloody issue would have been forced upon you. By its strength and perfection, the exertions of your opponents to organize and bring into the field a hireling force, of the worst outcasts of society, to destroy you, have been rendered impotent and abortive, and thus the city has been spared the horrors of civil war. You took up arms for protection and not for aggression. Had no armed opposition been arrayed against you, your work of justice would have been accomplished without bearing arms. Determined yourselves to avoid the shedding of blood, you made no attack upon your foes until they took the field against you. Your military power and discipline are adequate to any achievement you might desire. Had you aimed at the subversion of government, at a change in the incumbents of office, at any political revolution; had you been actuated by sinister designs, by malignant hate or revenge, by fanatical zeal in any object, declared or otherwise, the power was yours. Heaven acquits you of any such motives or passions. You could have proceeded to extreme measures, even in the very avowed objects of your constitution, but you have been moderate and just even in these. You might have done much more than you have, in the punishment of the guilty, but it is not in the execution of a few assassins and the banishment of a few score of noted criminals, and the voluntary expatriation of many others, that your work is done or to be done. You have visited your power only upon those respecting whom the evidence was clear and full. You have preferred to err on the side of clemency. Other rogues remain unpunished, and some high in position. They can hope for no immunity in the adjournment of the Committee. The eye of vigilance is upon them. The sword of justice is yet suspended over them; other modes of punishment are in reserve for them. The vigilance of the whole community in respect to crime and the abuse of office has been awakened, its moral sense and intellect have been quickened. Iniquity, hitherto disguised with fascinating mask, stands exposed in hideous deformity. You have demolished the fortress of crime and corruption, and have scattered its garrison to the four winds.

"The archives of the Committee contain a large amount of testimony which its session accumulated, and which can be hereafter used in the punishment and prevention of crime and political abuses, by the employment of those ordinary remedies which hitherto have proved inoperative.

"You are content to lay aside your arms. It is your pride and delight that those arms are unstained by a single drop of citizen's blood. You have disarmed your opponents, who sought to embroil you in a fratricidal conflict. You retire in the plenitude of your power. This event you sought and expected many weeks since, but the hostile attitude of your foes and the new

issues forced upon you prevented the realization of your wishes, prolonged your active service, and were the means of perfecting your military discipline.

"You will retain your organization, but without active service as a body, and without the design and desire of again assembling. Yet, as a provision against possible contingencies, your executive committee will endeavor themselves to exercise vigilance in the investigation and reformation of abuses, and in aiding and urging on the constituted authorities in the discharge of their duties, reserving the discretion and privilege of reassembling the board of delegates, or the general body, should serious occasion arise. Such occasion in the judgment of the executive committee might be found: first, upon the return of any person you have banished, or upon the necessity of enforcing any sentence already passed; secondly, upon the necessity of protecting any member of the Committee from violence or malicious prosecution, arising out of any act performed by authority of the Committee; thirdly, in event of any assault upon the life or liberty of any citizen, should it be apparent that the laws, or the officers of the laws, are inefficient for the protection of the citizen or the punishment of the offender; fourthly, in case of any violation of the purity of the ballot-box or the sanctity of the elective franchise.

"A small police force will be retained for the present, and will be reënforced, if advisable, from the ranks of the Committee.

"You will now adjourn. You will mingle once more with citizens without the distinctive character of vigilants. Let us, then, fraternize with those good citizens who have honestly differed with us. Let us unite vigorously and generously in those measures of public good, upon which all the patriotic and honest citizens agree. It is the duty of all good citizens to quiet popular excitement; at the same time, a manly vindication of your past course is incumbent upon you when occasion arises. You were not assembled to subvert laws but to maintain the people's rights. Justice demanded of her devoted adherents that vindication which the usurpers of her throne had denied her. You have dispersed the pestilent vapors which eclipsed her, and once more the benignant visage smiles upon a people long despairing and inert, and has been aroused to generous and healthy action. The people have found that they are not powerless under the rule of crime. Mighty has been the demonstration of the mind and voice of an awakened public in the great moral conflict.

"Let this moral power, vast and terrible when fully aroused, complete the work which your hands have begun. Aid it with your hearts and hands! Aid it by your example, your voice, your votes! Aid it in the jury-box, at the polls, by your daily life and conversation, by the public press, by the pen, which is mightier than the sword. Let not the good work flag. Remember that eternal vigilance is the price of liberty. Be vigilant in bringing criminals to justice. See to it that the courts and the officers of the law do their duty. Aid them in the execution of that duty; and in the unswerving integrity of manly and honest hearts, looking to that providence who has guided you in doubt and danger, who has brought your labors to a successful result, may you ever adhere to the true principles of vigilance, sustaining the laws when rightly administered, the government when faithful to the people, and the supremacy of the people as the source of both government and law."

Comment on the foregoing is needless. Like all the documents emanating from that body a candid reader cannot fail to discern its moderate and dignified spirit, and its sound and logical reasoning. Truth alone is aimed at. The necessity for such an organization is clearly proven, and the results accomplished moderately given. Thus speak the masters, as they have ever acted, *sans peur et sans reproche*. "It is a sublime picture of self-denial," exclaims one, "the history of the Vigilance Committee; one which has few parallels in the pages of history." *De facto* the state's rulers, they passed untainted through the intoxicating ordeal of the exercise in secret of almost unlimited power, in the use or misuse of which they were responsible only to their God and to each other.

The following notice appeared in the public journals of September 20, 1856:

"COMMITTEE OF VIGILANCE.

"All members in good standing can receive their certificates of membership by calling on the secretary of the Qualification Committee at 41 Sacramento street, between the hours of 9 A. M. and 4 P. M. daily.

"By order, 33, *Secretary*."

In May 1857, the executive committee removed their chambers to a room gratuitously furnished by T. J. L. Smiley at the corner of Sacramento and Sansome streets.

On the 29th of May, 1857, Mr Bluxome sent in his resignation as secretary, in which capacity he had served so long and faithfully, and James Ludlow was elected in his stead. It was decided that the same signature, namely, '33, Secretary,' should be continued in use by the new secretary, and that all edicts and communications should be subscribed therewith. Thanks were tendered Mr Bluxome under seal of the Committee.

The record of the Committee of 1856 opens the 15th of May, 1856, and closes with the 3d of November, 1859. The last meetings were held in the office

of Mr Dempster, from ten to fifteen members usually being present.

TREASURER'S REPORT FROM MAY 15TH TO AUGUST 11TH, 1856.

RECEIPTS.

Collections in initiation-room,	$ 2,189 45
Donations,	368 87
Collections of district committees,	8,960 25
Contribution-box in ante-room,	93 90
Roll-book,	2,240 45
Collection of citizens' committee,	10,574 79
Loans of members of the Executive,	1,700 00
Collections of delegates,	2,902 82
	$29,030 53

DISBURSEMENTS.

Furniture, blankets, bedding, etc.,	$ 2,242 27
Police expenditures,	2,044 12
Rent,	1,860 00
Horse, hack, and boat hire,	1,324 64
Arms and ammunition,	2,657 13
Carpenters, painters, lumber, etc.,	2,312 88
Painting and advertising,	230 50
Stationery, etc.,	172 50
Provisions, oil, candles,	4,615 28
Salaries,	6,247 54
Telegraphing,	51 30
Passage of prisoners,	100 00
Schooner *Exact*,	3,174 02
Sand-bag fortification,	685 50
Incidental expenses,	210 25
Expenses of wounded members,	536 07
Cash on hand,	566 53
	$29,030 53

TREASURER'S REPORT OCTOBER 9TH, 1856.

RECEIPTS.

Collections in initiation-room,		$ 2,189 45
Donations,		1,506 75
Collections of district committees,		14,638 00
Contribution-box in ante-room,		93 90
Certificate fund,	$3,568 25	
Less paid in full for 1st edition	1,772 50	1,795 75
Roll-book,		2,544 45
Publication of Terry trial,		1,100 00
Collections of committee of citizens,		1,168 00

Patent double-action ballot-box,		$ 500 00
Loans from Executive,	$1,700 00	
Less refunded,	1,600 00	100 00
Company collections,		5,932 82
Exhibition of rooms,		651 46

DISBURSEMENTS.

Furniture, blankets, bedding, etc.,		$2,350 95
Police expenditures,		2,079 12
Rent,		3,975 00
Horse, hack, and boat hire,		1,631 64
Arms and ammunition,	$9,807 87	
Less received from sale of muskets,	1,797 50	8.010 37
Carpenters, painters, lumber, etc.,		2,381 00
Printing and advertising.		294 00
Stationery,		594 95
Provisions, oils, candles, meals, etc.,		5,748 31
Telegraphing,		73 15
Passage of exiles,		1,625 00
Schooner *Exact*,	3,453 81	
Less received for her in full,	2,400 00	1,053 81
Sand-bag fortifications,		761 25
Miscellaneous expenses,		524 12
Expenses of wounded members,		1,327 62
Salaries (all departments included),		9,439 60
Cash on hand,		250 32

On the adjournment of the Vigilance Committee the county jail contained no prisoners awaiting trial, and the doleful predictions of the law and order journals that the occupation of officers of justice would be gone seemed for the moment to be realized. But be not downcast, O district attorneys, sheriffs, and lawyers, for with the non-interference of the people who were to wreck society on their impious form-breakers, criminals will take heart again! Never fear. And so it was.

Immediately after the adjournment of the San Francisco Vigilance Committee, highwaymen became very troublesome throughout the entire state. The governor loudly protested his inability to put down these guerilla bands. The legislature must vote him supplies, he said, else he could do nothing. Then there was talk of organizing vigilance committees

everywhere. Indeed, this seemed at the time to be the only way of exterminating this sort of vermin. "What kind of a governor is this we have?" cries one. When the Vigilance Committee were sending abandoned characters from the country he could easily find the power to attempt to make war upon them. Now when the aid of the state is desired for the protection of the community, and not as in the other case for its injury, he suddenly finds that he has no power. Shame on California to permit herself to be so misruled! May the time be hastened when, in the words of a contemporary, his term of office over, he may "reel from the executive chair back to a congenial obscurity, so far beneath the reach of animadversion that all his own follies, vices, and infamies, linked into a chain, could not plumb him. If, by a miraculous exercise of divine power, the law of gravitation which unfortunately holds him to the earth, should be, in respect to him, annulled, and he should fall away into the immensity of space as rapidly as descends an aerolite for the remainder of his years, he would not at the end of his career be farther from the centre of the earth than he will be beneath the contempt of an honest man the moment he steps out of the governor's chair. We, therefore, are impatient for the few short weeks of his term to pass over."

An auction sale of the Committee's effects was held at the Sacramento-street rooms the 7th of October. It was well attended, and the bidding was spirited. T. J. L. Smiley, of the executive committee, stepped from the multiform duties of inquisitor, and played the part of auctioneer. It was his vocation, no less the one than the other. A lot of lumber, part composing the scaffolding of Brace and Hetherington, and part the cells of Casey and Cora, was sold. Then followed mattresses, furniture, utensils, and arms.

About one thousand feet of lumber, of which the prisoners' cells were made, sold for seventy dollars;

bulletin-boards ten cents each; cavalry swords twelve and a half cents each; street barricades nine dollars each; one thirty-two pounder twenty dollars; beside which were mattresses, blankets, chairs, and table furniture. Total receipts five or six hundred dollars. Creditors of the Committee were notified to present their bills properly certified before the first of September, and receive payment. The bell was sold for six hundred dollars to the citizens of Petaluma, who hung it in the belfry of the baptist church with the understanding that it should be used not only as a church bell but as a city bell. A man was engaged to ring it three times every day, morning, noon, and night; and there it remained until the 29th of April, 1864, when a Mr Doyle, who had contributed something over a hundred dollars towards its purchase, becoming aggrieved at some political action of the church, took the bell, and stored it in a warehouse. But after the service it had seen it was not the bell to remain in ignoble retirement, and had not the people of Petaluma risen *en masse* and elevated it to its old position it would have rung out its wrongs of its own accord.

The famous brass cannon originally belonging to the California Guard, which threatened the jail while Casey and Cora were being led out, was delivered up to the state with the other state arms. The company, naturally desirous of retaining the faithful old trophy, petitioned the governor for it, but the request was flatly refused. Weller was then governor. The more to place it beyond their reach it was sent to Los Angeles at the time an appropriation of five thousand dollars was made to aid the people of that vicinity in hunting banditti. Not a robber did it kill, however, but true to its instincts, when Pancho Daniels was taken from prison and executed by the people, there stood the old gun, bright and bristling in absolute defiance of governors, statutes, and constitutions, menacing that very authority which it had been sent to sustain.

Silver medals about the size of a trade dollar were struck off and furnished to any of the members desiring them. On one side round an all-seeing eye were the words "Committee of Vigilance," outside of which, encircling the whole, was the line, "Organized 9th June, 1851. Reorganized 14th May, 1856." Beneath the eye were the significant figures "33." On the other side stood Justice with sword and scales; beneath, the words "San Francisco, California," and

round the edge, "Be just and fear not. Fiat justitia ruat cœlum."

The birth of Washington we yearly celebrate. Every fourth of July we remember our declared independence of any earthly power; and there are those who hold festive the 9th day of every September, when, in the year 1850, California became one of the American confederacy of states. All this is well. And yet there is that involved in the proceedings of the 18th of August, now all unnoticed and well-nigh forgotten, of as vast importance to the race as some of these. But the spirit of that day lives, and lives immortal. Let necessity invoke it and straightway it becomes incarnate. It is the spirit of vigilance, that essence of almighty power by which the progressional part of man regulates the unprogressional part.

On this, the 18th of August, the Vigilance Committee closed their barracks and retained only a moral

and invisible organization. This retiring was absolutely voluntary. It arose neither from outward fear nor from inward dissension; it was hastened by no self-destroying cause or extraneous pressure. There was then no organized force opposing the Committee, no danger from which immediate dissolution was the sole escape. On the contrary, the personal and probable pecuniary perils of the leaders would be augmented by the dismissal of their forces; and yet these leaders had spontaneously decreed that this should be. The objects which had been the original and only aim of the organization had been happily attained. Both life and property in San Francisco were now far safer than they had been for years. Animosities, though daily found by the morbidly distempered, were slowly subsiding; and already it could be safely assured that the softening influence of time, and that generous forbearance which victors in a noble cause can always afford to manifest, would eventually dissipate them wholly, and that strong civil bonds should so unite the members of this metropolis as to make it the envied of all cities.

The leaders, moreover, believed that the day when freedom might be secured by force alone had passed, and that the peace secured by bayonets might now for its continuance be safely left to ballots. For their own part they resolved, and to their subordinates they recommended, the total abstinence principle in politics. They would neither seek nor accept official station, lest some shadow of pretence might be afforded for the reproach of sinister designs in their purely patriotic movement. Enemies there were standing ready to brand their purity of purpose and rigid self-denial as office-seeking trickery, such as they would only too gladly practise themselves if they had the necessary character, capital, and ability.

"It is very seldom," remarks the London *Times*, "that self-constituted authorities retire with grace and dignity, but it is due to the Vigilance Committee to say that they have done so."

CHAPTER XXXII.

EASTERN AND EUROPEAN OPINION.

We will proceed no further in this business.
He hath honour'd me of late; and I have bought
Golden opinions from all sorts of people,
Which would be worn now in their newest gloss,
Not cast aside so soon. *Macbeth.*

A plague of opinion! a man may wear it on both sides, like a leathern jerkin. *Troilus and Cressida.*

When, in the autumn of 1851, tidings of pistolings, thefts, butcheries, murders, and amateur strangulations reached the fathers and mothers of those so indulging, the kind-hearted of Portland, Maine, circulated a petition praying the general government to send a national vessel to California to carry away all who desired to escape, but who lacked the means.

There were others besides the old women of Maine, some even among those who undertook to enlighten mankind through the columns of daily journals, who comprehended the existing state of things but little better. By the time of the disbandment, in 1856, many had become enlightened. All who desired to know the facts could, for the most part, command them. There were some minds, however, and are yet some, unable to see the right in the action of the people of California. But happily for the common-sense of mankind they are not many.

Often at a distance the action of the people was supposed to spring from a seditious spirit, a riotous disposition, and a general tendency to capricious skit-

tishness, when the very reverse was the case. Thus the movement at one time tended to check immigration when it should have encouraged it. At the East and in Europe the Committee was thought of and talked of very much as we would think and speak of the Cannibal Island king and his cabinet—a bloodthirsty set watching at the portal ready to swallow all incomers; when in reality they were mild-mannered humane men, who, though they would not hesitate to strangle strangers on occasion, would not, without provocation, harm a fly. In due time the Committee became known as they were, simply a voluntary police and self-constituted court of justice combined, watching with fatherly care over the city while it slept. Surely there was nothing frightful in this; yet to this day some look back upon that uprising as the manifestation of a ravenous appetite for blood and social disorder.

All the evils incident to famine, war, and pestilence were charged upon the Vigilance Committee as the result of their reign of terror. "In the first place," they cried, "California is rapidly being depopulated. Steamer after steamer carries away its living freight, and the journals which have supported the Vigilance Committee since its commencement, now in extreme wonderment cast about for the cause of this unexpected movement eastward. Again, it is evident to everybody who takes the trouble to examine critically the shipments of treasure by every steamer, that foreign capital is being withdrawn in large quantities from this country. This fact is admitted by the Vigilance Committee organs, and in this case also with a charming *naïveté* they inquire the cause."

On the whole the San Francisco executive committee of vigilance was perhaps the most remarkable body of men known to the annals of mankind. Essentially autocratical in the derivation of their authority, their duties were prescribed by no statutes and their acts subject to the criticism of no cabal. They were

those who led and made the people follow; not as slaves or serfs, but as thinking freemen who were proud to repose implicit trust in these their honored fellow-citizens.

Excesses are usually confined to a small part of the community; outrages to still fewer. The average citizen, even when excited, pauses before a deed abhorrent to his reason. The mass of the people in concerted action are generally right either wholly or in part. But in every reformatory movement there are a few who with no other guide to their passions than the internal blaze of excitement, become insane, and act like brutes, or men bereft of reason. Such people may be unadvised of the counsels and purposes of the mass, may easily misinterpret the popular temper or will, or they may imagine themselves ministers of upright feeling and pure principles, when in truth they are acting under the infatuation of personal antipathy, prejudice, or resentment. Happily failure is the fate of excess.

Any social movement resting on other foundation than common good quickly falls to the ground. Nothing sooner extinguishes the fire even of pure patriotism or pure religion than excess on the part of votaries. The wild and thoughtless of any popular movement are sooner or later brought to their level by the majority, else the movement dies. Hence we may be sure that long continued action, in any one direction, of a large or powerful part of the body social is founded upon right and reason.

Although regarded by eastern and European social conservatives as revolutionary and anarchical, the closer observers of the social and political development of California saw the great popular uprising in a clearer light. The New York *Herald* could not read the account of the taking of Casey and Cora from the scoundrels' sanctuary, the county jail, "without a thrill of admiration for the nerve and coolness of the armed citizens."

Says the New York *Courier and Enquirer:*

"The likeness which may exist between two things radically different, is strikingly illustrated by the events in California, of which we received full and apparently correct accounts on Saturday. In almost any other city in the civilized world, or for that matter in the half-civilized world, a successful combination of the citizens for the rescue of a criminal from the custody of the officers of the law would not only be anarchy, but anarchy in its very worst form; but a dispassionate consideration of the reports which have reached us, making all reasonable allowance for the color which they have received from the excited state of those by whom and for whom they were written, compels the conclusion that the San Franciscans did no more than duty and dire necessity demanded. Not only so; our admiration is commanded no more by the promptness and decision of their action than by the dignity and decorum which seems to have accomplished it."

The editor of the Washington *Star* writes:

"The action of the people of San Francisco in the case, evinces that though persons without character and of desperate purposes have in too many instances managed by demagogism, perjury, fraud, and conspiracy, to obtain position as public men, they stood ready to abate such nuisances when they became absolutely unbearable, by a resort to the first law of nature, to the right of self-protection. The country contains no more uncompromising opponent of mob law than ourself; for we are among those who, were we forced to choose between the two, would prefer to live under the despotism of a single ruler, than to exist at the mercy of a mob; the difference being, practically, that between the condition of personal safety and private rights in France, at this time, the government of Louis Napoleon being that of the will alone, and their condition, after the revolution of 1793, when it was but necessary for the most worthless, brutal, and degraded person to point an unfounded accusation against the purest and most useful citizen, to insure the summary hanging of the latter on the nearest lamp-post, by infuriated *sans culottes*. Nevertheless, though shameful abuses of our system of government, for the consummation of which the unsettled condition of new American communities affords too many opportunities, and experience teaches—more especially where so many thousands of worthless persons have been attracted by the temptations of the gold-washings and mines—so many of those chosen to be punishers of crime and conservators of the public peace prove confederates of and sympathizers with criminals, as that the law in such cases is powerless, and justice but a mockery—the jury trial being little more than an institution to aid the escape of the worst enemies of society."

"The people of San Francisco acted well," declares the New Orleans *Delta*. "In New Orleans the murderer would remain unpunished; a sham examination before Recorder Bright would wipe away even the

faintest recollection of it and all the concomitant circumstances. But in San Francisco it is different. The people are stronger than the bullies and the gamblers, and accordingly the respectable citizens, the merchants and property-holders, turned out and demanded the New Yorker who murdered King from the hands of the sheriff, and have probably hanged him before now. They did right. When the formal judiciary and executive are not capable of decisive action, the populace does the work and does it well."

The Boston *Journal* thus discusses the question:

"We cannot justly call the Committee of Vigilance a mob, for it has the countenance and support, direct or indirect, of all the respectable portion of the community. The press, the pulpit, and business men generally sustain the summary proceedings of those who, influenced as they honestly believe by stern necessity, have taken the administration of the law into their own hands. To denounce them as law-breakers and lawless, would be to denounce the law-making power! Living as we do in well regulated communities, where justice is almost uniformly administered, where crying evils have their appropriate remedies, and where the law is almost uniformly administered by competent and faithful officers, we cannot realize the state of things which exists in California. We cannot fully comprehend the terrible necessity for wresting the administration of the law from its regularly constituted officers, and for dealing out justice to an offender in a summary manner. We know, however, that self-preservation is the first law of nature, and that it is a law which is as applicable to communities as to individuals. Society has a right to protect itself against the evil designs of the vicious and the depraved, and it does this in well-regulated communities by stringent criminal laws, and by the choice of competent officials to administer those laws, and to mete out impartial justice to offenders. In California, if the laws are stringent, the officials, and particularly the juries, are corrupt and venal, and it is the consequent uncertainty of the administration of justice which has impelled the people to take the matter out of the hands of the courts, and in their sovereign capacity to mete out justice to notorious offenders."

"When assassins of influence," asks the New York *Sunday Times*, "are enabled to twist the legal meshes so as to suit their own operations, when they can openly put those to death, with the bowie-knife or the bullet, whose honesty they fear or whose presence is embarrassing, what can a community do but fall back on its natural rights, and personally maintain that standard of peremptory justice which the exigency

demands and the authorities are too corrupt to enforce?"

On the other side, I find in the New York *Commercial Advertiser* the following:

"It is impossible to read the California papers brought by the *George Law*, without deep concern and regret at the condition, moral and social, of the city of San Francisco. The picture is saddening in the extreme. We had hoped that the days of lynch law, and illegal administration of the law's penalties, had forever passed away in California; and that in San Francisco at least, where the machinery of legislative, administrative, and executive government is complete, secret vigilance committees, and other self-appointed and irresponsible tribunals, would never again be known. In common with all lovers of law and order, we have suffered bitter disappointment. At this distance from the scene of action, it is impossible to divine all the causes that have led to the sudden overthrow of government in the state of California—for such is practically the condition of things there—and the substitution of a secret tribunal and of popular lawless vengeance for the proceedings of criminal courts. Whatever may have been the causes, however, the effects were likely to be most lamentable and disastrous."

Obviously the *Advertiser's* editor was a careful reader of Mr Nugent's writings, for he goes on to say:

"Other evidences of excited passion and tyrannical disposition on the part of the Vigilance Committee organization accompany its proceedings. A determined effort has been made to crush the San Francisco *Herald* because it had the manliness to assert that the law and the officers of the law should alone deal with offenders against the laws. This clearly shows the temper of the whole proceeding. The thing is radically wrong. Once let it be established that private citizens, whatever their number and respectability, may take the administration of justice into their own hands when they think it is too tardily administered by the popularly elected authorities, and a despotism ensues more oppressive and cruel than that of any individual sovereignty."

And thus the Boston *Traveller:*

"It is impossible to justify the resort to popular power which has followed this outrage in California, except upon grounds of absolute revolution, for which no apparent necessity exists. It seems, on the contrary, that the constituted authorities were disposed to do their duty in the premises, that they were not even dilatory in the discharge of the proper functions. The offender was arrested and confined in jail; but the excited community was too impatient for justice or revenge to await the course of law. If the authorities had failed to do their duty, there would have been more excuse for this disorderly and dangerous step. It was certainly due to law and order to await the operation of the constituted forms of justice. Revolutionary measures

can only be justified upon the ground that society is suffering under evils for which no legal constitutional remedy can be found. The *Herald* seems to have maintained its position manfully, and already, as we perceive by the latest number received, a reaction in its favor has commenced."

Had this man of Boston been in San Francisco at the time, he would have been seen some dark night, standing on the outer ramparts of Fort Gunnybags, with a musket in one hand and drawn sword in the other, and three New England butcher-knives, and six Springfield revolvers under his belt, patiently watching for a Johnson or a Howard to appear that he might annihilate him. So often are opinions the result of accident.

The New York *Tribune* in a temperate commentary on the subject says: "We fervently trust that this state of things may not be protracted. Should it be, personal interests and enmities will creep in, and the little finger of the Vigilance Committee will be found thicker than the loins of the legal and regular, though corrupted, administration of justice."

"Much alarm is felt by individuals in the eastern states," says the Pennsylvania *Enquirer*, "who have friends and relatives in San Francisco. They fear that other exciting scenes have taken place, and that further blood has been shed. The real condition of affairs in that city is not understood, and it is difficult to conceive a state of social disorder so deplorable as to authorize the high-handed conduct of the Committee of Vigilance. Private letters generally, it is but right to add, sustain the Committee."

The New York *National Democrat* observes:

"If the same energy which prompted the formation of the Committee and organized the armed force that assaulted the jail had been directed to strengthen the regular course of justice as public opinion can do it, there would have been no need for the outbreak. The indifference to crime which is so natural in a community situated like California, induces laxity and encourages disorder, until they reach such a height that vigilance committees and lynch law step in and make a general jail delivery, warn off rogues, and strike that terror into evil-doers which courts and juries cannot inspire. It

is only in rare instances that mobs can effect any good. The precedent is bad, the law of passion cannot be trusted, and the slow process of reform in the administration of justice is more safe to rely on than the action of any revolutionary committee, no matter how great may be the apparent necessity. Such bursts of popular sympathy do not inspire that sense of personal safety which good government ought to secure. Better to endure the evil of the escape of criminals than to inaugurate a reign of terror, which to-day may punish one guilty head, and to-morrow wreak its mistaken vengeance on many innocent lives."

And thus, loudest and strongest of all, the Philadelphia *North American:*

"The state of California has never been remarkable for its law-abiding character, but we had supposed that the severe ordeal through which it passed during the former reign of lynch courts and vigilance committees had purified the atmosphere sufficiently to leave no further necessity for a resort to so desperate remedies. Formerly the offenders, against whom the summary code of Judge Lynch was levelled, were robbers, incendiaries, and convicts from Australia, Tasmania, etc., persons who committed crimes from no other motive than the mere desire for plunder. The community seems to have, in a great measure, got rid of these. But lo! in the midst of an era of peace, prosperity, and general security, the law is suddenly ejected from the judgment-seat, the prison surrounded by a mob, self-constituted committees nullify the authority of courts, juries, judges, police, sheriffs, mayors, and other functionaries, and seize the reins. This may be all right, but we must confess that to us it looks as though it were all wrong. No matter what may be the plea urged in justification, it is rank rebellion and revolution, as much so as anything that ever happened in Mexico or Central America. A single murder, however unprovoked, is no excuse for the subversion of all law, and we trust this California outbreak may end in the signal punishment of its authors. Assuredly if the governor of the state be a man of the proper nerve, he will at once adopt the most energetic measures to restore order and suppress insurrection. This is the second time that the administration of justice in San Francisco has been made the excuse for a mere mob to overturn the lawful authorities and elect irresponsible agents to wreak their vengeance on a few offenders. Had the first outrage of the kind been fully met and resisted by the state authorities, as it should have been, the second one would not have occurred. And if the present disturbance be calmly tolerated, the same thing may be at any time repeated, whenever popular passion or prejudice happens to be wrought up to the proper pitch. The rule of the Vigilance Committee in San Francisco is the reign of anarchy and terrorism. Its members are far more dangerous to the community than the gamblers whom they persecute. They are the worst possible enemies to the peace and prosperity of the state, since they nullify at their pleasure the laws which are the shield of the citizen against oppression. Let us hope that the press in the Atlantic states will do its duty in the present instance, and meet this outrage with the denunciation which it merits."

The New York *Tribune* indulges in the following:

"There is a subtile and delicate flavor about California crime not to be matched by the felonies of any other known locality. They taste of the soil. There is a region in Sardinia the bitterness of whose earth is perceptible in its honey; and delicate tasters have noticed in wines of eastern France a flavor of flint; in those of Burgundy a smell like that of the sprouts of the wild eglantine, and a taste of faded rose leaves. And the soil seems to transmit its quality to human actions, as well as its flavors to honey and wine, or grapes, or laurel blossoms. Here is a record of a little criminal drama in five acts enacted on the borders of the Pacific, in which one Whitney, having a sum of money in bank, and owing an equal sum, consulted one Dixon as to the best means of avoiding payment. Dixon promptly counselled that Whitney should withdraw the money and lodge it secretly in his hands, so that it could not be attached by legal process. This was done; but when Whitney desired to withdraw the sum from his ingenious and guileless friend, the latter denied all knowledge of the transaction. Thereupon the despoiled Whitney craves the interposition of the law, and makes a clean breast of it. The legal myrmidons overhaul Dixon, and it is at last discovered that he has made over the cash to an evil woman named Richardson, with the understanding they are both to fly, rejoining each other in a distant city where they can diffuse the booty in peace. Searching and urgent investigation of this person disclosed the fact that she had just perfected her arrangements to throw overboard her fellow-felon and run away with another man; a man of the hoodlum order, with a taking eye and a correct taste in hair-oil. Search for this young man brought to light the amusing fact that he had spent quite a good portion of the money in purchasing a fugitive outfit for another young woman, who, as soon as she had got the articles, did literally and actually fly with another young man about whom nothing is known, except that he seems to be the only one in this strange succession of criminals who has reaped any of the fruit of the original crime. Considering the extreme complication and embarrassment of everybody concerned, and the small likelihood that he will ever get any of his money back, it is possible that Whitney now almost wishes that instead of mobilizing his capital in that secret fashion he had quietly paid his debts with it."

The following on the cant of law-abiding from Dickens' *Household Words* is quite a remarkable paper considering its source:

"We avow for our own part that whensoever at public meeting, dinner, testimonial presentation, charity-election, or other spoutation ceremony, we find, which we always do, an orator approaching an Englishman's respect for the law, our heart dries up within us, and terror paralyzes our frame. As the dreadful old clap-trap begins to jingle, we become the prey of a deep-seated melancholy and a miserable despair. We know the thing to have passed into a fulsome form, out of which the life has gone, and into which putrefaction

has come. On common lips we perceive it to be a thing of no meaning, and on lips of authority we perceive it to have gradually passed into a thing of most pernicious meaning. For what does it mean? What is it? What has it come to?

"Here it is: 'My good man, John Bull, hold up your hand and hear me! You are by no means to stir a finger to help yourself, or to help another man. Law has undertaken to take care of you, and to take care of the other man whoever he may be. You are the foremost man of all this world in regard of respecting the law. Call in the law, John, on all occasions. If you can find the law round the corner, run after it and bring it on the scene when you see anything wrong; but don't you touch the wrong on any consideration. Don't you interfere whatever you see. It's not your business. Call in the law, John. You shall not take the law into your own hands. You are a good boy, John, and your business is to be a by-stander, and a looker-on, and to be thought for, and to be acted for. That's the station of life unto which you are called. Law is an edge-tool, John, and a strong arm, and you have nothing to do with it. Therefore, John, leave this all-sufficient law alone, to achieve everything for you, and for everybody else. So shall you be ever, ever the pride and glory of the earth; so will we make patriotic speeches about you, and sing patriotic songs about you, out of number.'

"So, by degrees, it is our sincere conviction, John gets to be humbugged into believing that he is a first-rate citizen if he looks in at a shop-window while a man is being murdered, and if he quietly leaves the transaction entirely to law, in the person of the policeman who is not there. So, when law itself is down on the pavement in the person of the policeman, with brute force dancing jigs upon his body, John looks on with a faith in law's coming uppermost somehow or other, and with a conviction that it is law's business and not his."

Some time after the disbandment the editor of the New York *Tribune* writes:

"A cursory view of history affords us nothing like the San Francisco Vigilance Committee. The last mail from California brings us an address which may be regarded substantially as the abdication of its authority. It surrenders with a grace quite germane to its original pretensions. In its manifesto, without abandoning its vigorous and at the same time quiet grasp upon illicit authority, it pays tribute to the law and the constitution; and decrees that it will hang no more thieves and murderers, if only the regularly constituted judicial authorities will perform the necessary strangulation. And the gentlemen of the executive committee appear to have arrived at the conclusion that hereafter it will be safe to allow juries to convict and judges to sentence. Petit larcenous persons will have no more chance; the burglariously disposed will be packed off to the state-prison which cost so much money; the judges have grown suddenly honest, and the jurors models of incorruptibility; and so the Vigilance Committee, having done its work, retires. We cannot permit it to retire without paying it a certain meed of

respect. Without pretending to vindicate, we may say something in extenuation of its usurpations.

"And, first, of these usurpations. Anything more equitable can hardly be discovered in the world's annals. The formation of the first Committee was a revolution without the excesses of a revolution. We think we may say that, in all the records of popular uprisings, nothing can be found to challenge it. Here were men deserting their daily and most profitable avocations, risking their own lives and liberty, flouting to their very faces the legally constituted judicial authorities, ignoring the state jurisdiction, spending their personal money freely, since the public expenditure brought no requital, determined that, at all hazards, there should be no more miserable marauding and murdering in San Francisco. The immensely flagrant must swing, the suspicious and disreputable may give leg-bail. 'But, hereafter,' said this Vigilance Committee, 'we will not live in this perpetual condition of alarm. Hereafter the bread shall not be stolen from the very lips of our dearest. Judges are false, juries are venal. No scoundrel, however scoundrelly, but goes unwhipped of justice. On the other hand, he whips us, who strives to be honest. *Ergo*, if we catch him purloining or murdering we shall be under the necessity of requiring him to walk out of this upper-story door of a warehouse, with a new hempen cravat, by us for him especially devised and twisted. As for the minor sinners, let them, in the devil's name, depart, under the pain of capital execution if they return.' A notable resolution, suggestive, undoubtedly, of anarchy, and easily to be proved illegal, by the smallest reference to the smallest law library in this country. Very terrible, no doubt, to the adventurous gentlemen who were compelled to walk out of the elevated doors. Positively inconvenient to the hard workers at private pockets. Quite disgusting to the burglars. A perfect misery to the murderers. A general bursting up of speculations not upon good terms with the statutes. Honesty to be observed, upon pain of dancing upon nothing. Very bad! It is due to these Vigilant Committees, both the first and the second, to say that in no one instance have we discovered any abuse of their authority, nor any attempt to employ their power for private ends. We cannot learn that either of them have hanged any person who did not, as human opinion goes, richly deserve hanging. The people banished were just the people to be banished; and it is only to be objected that no one has a right to obtrude his personal nuisances upon his neighbors. The gentlemen who, for the sake of social order, cheerfully submitted themselves to the chance of indictment, sentence, and execution, must have taken very wide, and we fear that we must add, very wise views of public responsibility. No more than revolutions are Vigilance Committees to be recommended. But, as necessity knows no law, we do not propose to prescribe laws for necessity. And yet all of us will be pleased to learn that the police condition of California authorizes the virtual disbanding of the Vigilance Committee. Law is certainly better than anarchy, whenever anarchy is not the better law."

There were many fears expressed at the time, in California and elsewhere, as to the permanent evil re-

sults following this unnatural state of society in the popular assumption of power, and in the reaction which must ensue. But indeed such fears were unnecessary. Upon what should it react? The demonstration itself was a reaction, a reaction of crime upon its own head. It was the bursting of accumulated social abuses, the natural result of a long sequence of political evils. As well might one caution the physician to beware of the reaction of the disease one had brought on one's self. With the removal of the moral rottenness which fermented the outbreak, there was nothing for the movement to react upon. To suppose the busy merchants composing the executive committee desirous of office, or of subverting righteous rule which should protect them and their property against villainy, was preposterous. Had they wished to rule they might easily have made themselves governors, legislators, and judges, in the legitimate way, and without resorting to violence. Nor was it against those that misruled them, even, that their wrath was directed, but the enemy of these so-called rulers, whom with their law they could not reach. The men of law and government should have risen in a body and have thanked these merchants for thus relieving them of a monster with which they could not successfully cope.

CHAPTER XXXIII.

THE CASE OF HERBERT—FEDERAL FROWNINGS.

> Men the most infamous are fond of fame,
> And those who fear not guilt, yet start at shame.
>
> *Churchill.*

Almost simultaneously with the heralding to the world of these deeds of blood in California, was a murder, perpetrated by one of California's representatives in congress, which should heap yet higher blasting ignominy upon the head of our devoted country. On the 8th of May, in Washington city, shortly after eleven o'clock A. M., Philip T. Herbert, member of the house of representatives from California, entered Willard's Hotel, where he took his meals, and called for his breakfast. The waiter placed before him all at his command, and then informed the honorable gentleman from California that to obtain a hot breakfast from the kitchen at that hour, an order from the office was necessary. This was the provocation. For this the chivalrous gentleman deemed himself warranted in killing the menial. Nor would his law and order friends in California, though they might not openly justify the act, have him hanged for it, as he richly deserved.

After applying to this and other servants in the room epithets too disgustingly profane for record, he rose from the table and struck one Thomas Keating on the back of the neck with his fist. The waiter turned upon his honorable assailant; other waiters came to his assistance; a Californian friend of Herbert's rushed to his rescue, and for a time plates and chairs were in

lively commotion. To be short—for I can assure the reader I take neither pride nor pleasure in recording it—in the midst of the *mêlée* Herbert drew from his pocket a revolver, and putting it to the breast of Keating, shot him through the lungs. The victim died in five minutes. No more dastardly deed blots the annals of California. Cora's murder, Casey's murder, were acts of heroism compared to this. A representative of California in congress, to kill a hotel waiter for not doing what was absolutely beyond his power to do! And yet the murderer was not hanged. He was not even punished. He was a congressman and his victim a poor Irishman; besides, his constituents at home were behaving but little better. There was not a decent man in California who when he heard of the act was not sick with shame that he lived in a country where such men were chosen for office. Herbert was a Mariposa monte-dealer. He was of the class composing the law and order party, as was John B. Weller, United States senator from California, who volunteered his services to obtain Herbert's release from the courts, on the ground of his position as representative of a sovereign state. Cool.

Yet not to be uncharitable, I can easily see how it might all come about naturally enough. This man Herbert did not go into the breakfast-room that morning with the intention of killing a servant. Had he not carried a pistol, probably he would have been beaten by the waiters as he deserved, and that would have been the end of it; and this may be a commentary against the carrying of deadly weapons by irascible politicians. He had been drunk the night before, had lost heavily at the gaming-table, and he went into the hotel with his head exceedingly sore. One word, one deed, led to another, and in the heat of passion this brute—no, I will not so defame the animal creation—this human hyena, politically, patriotically, chivalrously murdered an Irish waiter for not bringing him a hot breakfast from the kitchen

after the breakfast hour had passed and he could not get it. Blush, California! Hide thy head in shame! This, thy representative! Would that the San Francisco Committee of Vigilance had been in Washington at the time.

The grand jury of Washington indicted him, and for a short time he was imprisoned. Even this Philip regarded as a great hardship. The Dutch minister, Du Bois, who was in the dining-room at the time, threw himself back upon the privileges of his position and refused to testify, greatly to the prejudice of justice and his own honor. Had it been a Dutch waiter instead of an Irish waiter, the Dutch minister would have given his evidence. It would have been his business to have done so. But what was the life of an Irish waiter to a Dutch minister? On the first trial the jury disagreed; on the second almost as a matter of course the criminal was acquitted. How good the law to such as Laura Fair and Philip Herbert; but a poor friendless Mexican or Irishman it must needs bravely hang for example's sake. Not long after Washington had another humiliation, if such scenes humiliate her, in that display of cutthroat chivalry made by Brooks of South Carolina in his attack on Senator Sumner, so that California stood not alone in her infamous glory. Shame loves company.

Herbert in his younger days left Alabama for having killed a fellow-student at college in Tuscaloosa. The heart sickens at the recital of such disgusting deeds—deeds far more damning in the sight of God and all just men when perpetrated by persons of some cultivation, than when done by beings brute-low in instincts and ignorance. From my soul I pity the poor wretch who in a fit of drunken frenzy plunges his knife into the breast of a comrade, only the next moment to bewail the loss of a friend, no less than the consequences of his sin. I could stand beside that Caliban upon the scaffold, and

wipe the perspiration from his bloated face and call him brother, even though Caliban's country was not my country, even though, blessed be God, Caliban's mother and childhood were not my mother and childhood. But if there be in human form a fiend, if there be aught the sweet heaven smiles on fit only for Tartarean depths, such an one is he to whom God has given intellect, culture, and opportunity, but who from his own inherent baseness prostitutes all in the hot-bed of loathsome passion. To feed the fire under such a soul one would almost serve as deputy to Satan.

Such were the men the odium of whose sins good citizens had to bear. And next to the disgrace attending the murder was the disgrace attending the defence of the murderer by California's senator, a defence which seemed to make all California a party to Herbert's villainy. But this was only on a par with law and order government at home. There were many desperate characters who did no worse in California than at the east. But these were not the people of California. "We tell this senatorial apologist for the crime of a congressman that California's heart beats with no response to the appeal he made," spake the voice of the Pacific. "We tell him that the picture presented of the widow of that poor Irishman bearing her babe to the court-house, and in the frenzy of her grief calling upon it to look upon the murderer whose act made it an orphan, makes many a heart here swell with sympathy for that mother and that child, and indignation against him who with cruel hand slew the one to whom both looked for support. We tell him that his constituents bow their heads with shame to recognize in such a man as Herbert their representative. We tell Senator Weller that his defence of the murderer Herbert does him no honor here."

Ay, next to the sin of the murderer is the sin of the advocate or judge who by reason of that very wealth, intelligence, and position which should have

taught the haughty criminal better behavior, by reason of those very circumstances which add tenfold to his damnation, shields him, winks at his wickedness, and lets him go free. It is enough to disenchant a man of humanity, and make him long for a brute existence. If in this same *mêlée* the congressman had been killed, would not the waiter have hanged? Yet the congressman, because he was a congressman, and a gentleman, as chivalry would call him—yes, gentle as Genseric, the scourge of God—was indicted for manslaughter only, and after giving bail in the sum of ten thousand dollars, took his seat in the house as if nothing had happened. Said one of the discriminating commentators on the characters of two of this class, Herbert and McKibben: "Phil is a scamp by nature and profession. He will cheat at the gaming-table, but Mac is an honorable man and plays always on the square."

The quality of law and order representation in congress as manifest in John B. Weller and Philip T. Herbert was certainly not such as to do credit to their cause. If all were as they, the law-makers of Washington could but feel that in truth there was need of regeneration.

"Every lover of republican institutions," says Weller, when made governor—for California did make this ruffian-defender governor—in his inaugural of the 8th of January, 1858, "must deplore the disposition so frequently manifested by a portion of the people in different sections of the country, to take the law into their own hands, and place the regularly organized tribunals at defiance. Ours is emphatically a government of law, and that law is the essence of popular will as expressed through constitutional channels. In its execution the sovereignty of the people is manifested. It may be that the law sometimes fails to give adequate protection to person and property, but the fault will generally be found with the people themselves." The politicians were pure, the law was

perfect; the people only needed regeneration. Well! there was too much truth in the charge; only the people with the mote in their eye could see the justice of the remark more clearly if the political beam was removed from the eye of those who made it.

Not a word condemnatory of Herbert's conduct nor of Weller's course the *Herald* makes; not a word of commentary even. Still harping on the Vigilance Committee and their acts; still inventing excuses for every outrage committed, for every villain arrested. So small a matter as the killing of an Irishman by the representative of the law and order party at Washington was not worthy of notice.

The appearance of Herbert in San Francisco, on the 17th day of September next after the murder, fell upon the people like an unwelcome visitation. In company with his law and order friends he strolled about the streets, conspicuous in his hardened guilt, eyed with admiration by the cutthroat fraternity, eyed as one would eye a loathsome reptile by all right-minded men. The next day a committee of citizens waited on him at the St Nicholas Hotel, having in their hands a sealed petition signed by two thousand persons, which they handed him with appropriate remarks.

Trembling like an aspen, while visions of Caseys, and Hetheringtons, and long lines of vigilance soldiers rushed through his brain, for of necessity so foul a thing was craven, the murderer broke the seal and read:

"*To the Honorable P. T. Herbert:—*

"We, citizens of California, believing that you have forfeited your claims and rights as our representative, and that by your course at the national capital you have deeply injured the fair fame of the State of California, both at home and abroad, would therefore take this course to make known our wishes, and to respectfully request of you that you would not again make California your residence."

"*San Francisco, August 25, 1856.*"

A fortnight after, advices were received of the death of Mrs Keating, occasioned by grief for the husband killed by the honorable representative from California.

Herbert departed; he dare not remain; but he went not without a fling at his archenemy the King family.

Among journalists and politicians invective attained perfection. P. T. Herbert was not without talents in that direction. As a sample, I give a quotation from a communication addressed to the people of California, published as an advertisement in the *Herald* of November 5th. "Among others claiming to be independent," he remarks, "no one seems to have attained so conspicuous a position as one Thomas King, the gold-bought editor of a sheet devoted to public libel, known as the *Evening Bulletin*. Were it elsewhere than in California I would apologize for the use of his name. From his character in Washington and his conduct in San Francisco, I can truly say I know him a notorious liar, I think him a great way fool, and a solely coward. From the time of his advent into public life, when he first emerged from the obscurity of his dark and infamous individuality, his only ambition has been to become the prince of blackguards, the most consummate of liars, the most infamous of villains, and the most craven-hearted of miserable cowards; and here I venture the prediction, he has never done an honest act where a dishonest one could be made to serve the same purpose. In Washington his want of fidelity to his obligations is proverbial, for he has violated the most solemn of all plighted vows, either before God or man. And I warn the people against this hypocritical dog under the mask and garb of moral character, else he might steal from them the treasures of their lives. This miserable thing, the propagandist of morality! God save the mark!" It seems Herbert had sent King a challenge which the latter laughed at. Singular ideas the law-making duellists had.

That same evening the *Bulletin* says:

"To-day, California will be purged of one more of the infamous characters who disgraced her in the eyes of the civilized world, of one who held a position obtained through vile means, the ignorance of the true nature of the

beast, forced on her by the corrupt primary election system, and the money of the gambler. We allude to P. T. Herbert, the Mariposa monte-dealer, the murderer of Keating, and the rowdy congressman. We are glad that our state will be rid of his blighting presence, and our citizens of the mortification they feel, that one bearing the mark of Cain, with less to recommend him to the sympathy of his race, and with a character so hideous in crime that even the vilest of men turn from him in horror and disgust, should have the opportunity of misrepresenting them for another three months in the national congress. Since the return of this miserable man to our state, he has been remarkably quiet. He has been shunned by all decent men as the plague would be; his bloody palm has never touched that of a gentleman. His associates have been men of his own class, of easy virtue, who would not be tolerated in respectable society. Only once, to our knowledge, has he been approached by gentlemen, and that was on his arrival, when he was presented with a petition from a large body of our citizens requesting him to leave the state, and expressing their indignation at his vile conduct. Our citizens have so far respected the law as to refrain from inflicting any bodily punishment upon the murderer, and he has been very careful not to afford them an opportunity to administer the justice he so recently escaped. He has hardly yet, notwithstanding the liquor imbibed for the purpose of keeping up a false courage in the eyes of his fellows, recovered from the shock which his guilty conscience and craven spirit received when the petition above referred to was presented to him by a few of our citizens. One moment longer, ere the character of the formidable document was revealed to him, and he was assured that it was not the mandate of '33, Secretary,' and the murderer would have fallen from fear. The public have the satisfaction of knowing that although this criminal may have the impudence to present himself at the next session of congress, their unanimous condemnation of his deeds has been spread before the world, and a petition will be presented to the House of Representatives that, should he have one spark of shame or manliness left, will cause him to shrink into his former obscurity, with, we hope, a determination to seek some honorable livelihood in the future. We understand that this double murderer, backed by a few of his chosen friends of disreputable character, has been dogging our steps for the purpose of assassinating us, should he and they meet with a favorable opportunity. We warn these parties, some of whom were participators with McGowan and Casey in the recent murder which caused such an upheaving of the popular will, that they are all marked. As for us, we do not intend to suffer ourselves to be provoked into an assault; but shall, on all occasions, be prepared to resist the slightest demonstration of an attack. Should we in the *mêlée* be overpowered by the number of the hounds, who are too cowardly to hunt other than in a pack, we feel assured that every one of the dastardly crowd will be speedily sent to answer to that high tribunal where the souls of men are canvassed, and punishment inflicted according to the deeds done in the body."

As late as March 1861, the *Nevada Journal* remarks:

"Phil T. Herbert, the Irishman-killer, has a letter of his published in the Mesilla *Times*, calling on the people of Arizona to call a convention to act

with the south against the union. Phil says he will probably be a commissioner to Arizona and New Mexico, from the 'Sovereign state of Texas,' and that he was opposed to referring the Texas ordinance of secession to the people, 'thinking it unnecessary, and crouching to the demands of our enemies.' The *Times* contains a call in accordance with the suggestion of Phil Herbert, signed by more than sixty names, half of whom are greasers or foreigners. Phil Herbert once represented the democratic party of this state in congress."

The 28th of July a resolution passed the senate requesting the president to lay before that body any application by the governor of California to maintain the laws and peace of the state against the usurped authority of an organization styling itself the Committee of Vigilance, and also any information he might obtain as to the proceedings of that association. In compliance with which the 6th of August the president sent a message to the senate with reports from the secretary of the navy and the secretary of state and all the correspondence in their possession on the subject, including the letters already given and those which follow.

Among the most important are those from Farragut and Boutwell to Secretary Dobbin of the United States navy at Washington, before alluded to:

"NAVY YARD, MARE ISLAND, July 2, 1856.

"SIR: I had the honor of addressing you, by the last mail, on the subject of the revolutionary movement in this country. You will now perceive, by the journals of the day, that the Vigilance Committee claim it to be a successful revolution, inasmuch as they have completely overpowered the law and order party, taken the few arms, with our old naval store-keeper, Maloney, and Judge Terry, of the supreme court. Although you have, no doubt, seen the various accounts in the papers, I deem it my duty to give you my account, as a disinterested looker-on; for the community is at this time in such a state of excitement, that no one appears to see more than one side of the affair. Every one feels that we are on a volcano, and is mentally feeling for the first sensation of explosion.

"After the governor had issued his proclamation calling out the militia, and failed to obtain arms for them from General Wool as he supposed he would, General Sherman resigned his command of the state forces, and General Howard was appointed his successor. He, very unwisely, attempted to organize the state forces in the city of San Francisco, where the vigilants had six thousand men under arms, with artillery, and the most perfect system of espionage. The general's next movement was to procure a few stand of arms from General Wool, which were due to the state by annual distribution; they

were delivered to one of General Howard's men, Maloney, who, while on his way to San Francisco from Benicia, in a sail vessel, was boarded at two A. M., captured, and the same were taken to the Vigilance Committee rooms. Maloney and his party were released; but a short time afterwards, upon reflection, the Committee determined to re-arrest Maloney, for reasons best known to themselves, and sent a police guard from their own forces after him. By this time he had reached Dr Ashe's room, where, by appointment, he was to meet the general and make his report as to the result of his expedition. He was followed thither by the vigilants, who, on entering the room, requested Maloney to accompany them to the Vigilance Committee rooms.

"Maloney asked if they had any warrant for him, and being answered in the negative, he declined going; and Dr Ashe and Judge Terry, who were present, ordered the vigilance police out of the room. They immediately went for reënforcements, and the party in the room set out for the armory, or assembly room of the law and order party, intending to resist the Vigilance Committee in attempting to take one of their company, as Maloney was one of the militia company of Ashe's command called into service by the governor. Joined by some eight or ten others while retreating toward the armory, they were overtaken by the vigilance police before they reached the room, when Terry and Ashe faced about and told them to stand off; they rushed on, however, and attempted to wrest Judge Terry's gun from his hands, saying that they would take him and his gun too. The struggle became fierce between the vigilants and Terry and Ashe, until at last a pistol was fired; Dr Ashe and others say it was fired by one of the vigilants at Terry, but their party say it was fired by accident, but it is evident they thought it was fired at them, the ball passing between them. At this moment Terry drew his bowie-knife with his left hand and struck Hopkins, one of the vigilance police, who had hold of him, on the neck; whereupon the police fled, and the law and order party made good their retreat to the armory, where, in a few minutes after the tap of the bell on the roof of the Vigilance Committee buildings, they were surrounded by three or four thousand men, armed with muskets and cannon.

"There were but sixteen men inside of the armory, all of whom were willing to die there and then, but Judge Terry said, 'No, it was his life the vigilants wanted, and that his friends should not be sacrificed for him;' so they surrendered and were conveyed to the Vigilance Committee rooms. The next day all but Judge Terry and Maloney were released upon parole. Commander Boutwell wrote a letter as soon as he heard that Dr Ashe was confined, to the Committee, and he was released upon parole. These are the facts, as far as I have been able to learn them from the most disinterested persons.

"Now, the Vigilance Committee claim that, if Hopkins dies, Judge Terry shall be hanged, as guilty of murder; and as Judge Terry's friends are very numerous, and are generally warm-hearted, impulsive men, if this man Hopkins dies, and Terry be hanged, there is no predicting the result. They are now smothering their feelings for the purpose of endeavoring to save Judge Terry's life, for on the first hostile movement they will take his life; it is so understood. There is very little doubt but that the Committee is anxious that Hopkins may live, and that they regret the whole affair; for up to the time of

Terry's arrest the Committee were sanctioned by an overwhelming majority. Now, I think, they are aware they have caused a division in public opinion, and people are beginning to come to their sober senses, and will not be willing to be longer governed by they know not whom. I have been in revolutionary countries, and I could always find some one in authority; but here, although they are in correspondence with me, I know no one, except the bearer of their letters, and should have thought them to be mere messengers had they not told me they were members of the executive committee; therefore, in my replies, I addressed my letters to them, and not to 'No. 33, Secretary,' whom I did not know. There is a great effort made on both sides, to mix us up in these matters, but as I know the tenderness with which the general government touches the subject, I have told them that I shall do nothing without orders; but my views on the subject would be sufficiently explained by my letters to Commander Boutwell and Messrs Farwell and Chase, of the executive committee, without troubling you with a repetition of them.

"That the governor has acted unwisely from the beginning, there is scarcely a doubt; that he could not have done anything but call the legislature together, or appeal to the executive of the United States, is equally clear to me; and it seems to me that was what he should have done, as he had neither arms, ammunition, nor supporters. After having surrendered the prisoners, Casey and Cora, in the beginning of the outbreak, or virtually sanctioning it, and thus giving satisfactory evidence of his weakness, his proclamation should have been conciliatory, and not, as it was, belligerent; and, as it was, should not have allowed his forces to be concentrated in the enemy's camp.

"These are my humble views of the conduct of the governor and his general of militia; all of which is respectfully submitted for your consideration, with the hope that my course in the affair may meet with your approbation.

"I am, sir, very respectfully, your obedient servant,

"D. G. FARRAGUT, *Commandant.*"

"UNITED STATES SHIP 'JOHN ADAMS,'
Off San Francisco, Cal., July 3, 1856.

"SIR: After going up to the navy-yard at Mare Island, in this ship, Governor Johnson, of California, visited the navy-yard with a view of ascertaining if Captain Farragut was authorized to afford him any assistance in suppressing the revolutionary movement in San Francisco. Captain Farragut and myself concluded that, under the circumstances, authority must be received from the Navy Department before we could act. Some days after my return in the *John Adams* to the anchorage off this city, I was informed on the night of Saturday, the 21st of June, that the navy agent, Dr Ashe, had been arrested by the order of the Vigilance Committee. I wrote a letter that night, addressed it to the Vigilance Committee, and sent it the next day by an officer of the ship; and very soon after Dr Ashe was set at liberty. A copy of my letter and the answer are herewith enclosed. At the time the insurgents arrested Dr Ashe, they also arrested Judge Terry of the supreme court of California, which greatly increased the excitement in the city. Judge Terry and several other gentlemen were attacked in the street by a party of the

vigilance police, and after the judge had wounded a man by the name of Hopkins, of the insurgent party, the judge and his friends retreated to the armory of the Blues. This building was very soon surrounded by hundreds of armed men, with field-pieces to batter down the walls of the building. The insurgents having demanded an unconditional surrender, the law and order party surrendered, and was marched off in triumph to the prison of the Vigilance Committee. On the 27th ult. it was believed that the wounded man was improving, and on the same day I received a communication from the governor of the state, a copy of which, with my answer, is herewith enclosed. Also, a communication from Judge Terry himself, claiming my protection. The appeals of his distressed wife, and the fact that Judge Terry acted in self-defence, would have almost induced me to batter the city down, if I could have done so without destroying the lives and property of the innocent with the guilty.

"On the evening of the 28th, and after I had written the answer to Governor Johnson's official communication, I learned that the wounded man was getting worse, and supposed to be dying. I addressed a communication to the Vigilance Committee, a copy of which is enclosed, and which I supposed would awaken them to the awful responsibility they were about to assume, in taking the life of a judge of the supreme court, an honorable man, an American citizen, and without giving him a fair trial.

"The Vigilance Committee referred my correspondence to Captain Farragut, and as he is senior to me, I shall leave it in his hands. A copy of the application of the United States marshal to place a prisoner on board my ship, is also enclosed.

"I am, respectfully, your obedient servant,

"E. B. BOUTWELL, *Commander.*"

In reply the following instructions of the Navy Department to the Pacific Squadron were directed to William Mervine, commanding, or to the senior naval officer on duty:

"NAVY DEPARTMENT, August 2, 1856.

"SIR: This Department has received despatches from Captain Farragut and Commander Boutwell, covering a correspondence between these two officers, and between them and certain persons in San Francisco styling themselves a Committee of Vigilance. The facts developed by these despatches, as well as the daily events occurring in San Francisco, disclose a state of affairs not only calculated to awaken solicitude and occasion alarm among all law-abiding citizens, but also calling for the exercise of extraordinary circumspection and wise discretion on the part of those who have duties to perform as officers of the United States. Fortunately in our happy country we have a written constitution and laws for the guidance of all who are intrusted with authority, so that the vigilant and discreet officer may confidently expect the approbation of his government while he steadily treads the path therein marked out for him. However much the president may be shocked at the apparent rebellious attitude of the people towards the government of their

state, however strong may be his conviction that it is a case of domestic insurrection, yet he has no authority of his own mere volition to order the interposition of the army and navy, and cannot exercise that power except in strict accordance with the constitution, and until certain forms pointed out by statute have been duly complied with by the authorities of that state. Nor can the officers in command of naval forces interpose on the requisition of the governor or other high functionaries of one of the states, except in pursuance of orders received from the executive department of the United States. The machinery of our government is simple yet complex. The powers delegated to it are well defined and limited. A strict observance of them within their prescribed limitations and restrictions can alone save our union from the dangers which would inevitably imperil it in the event of a rash conflict between the federal and state governments. Before interfering with the domestic troubles in California, you will await the orders of your government. But duties of a somewhat different character may devolve upon you, and events may possibly occur requiring your interposition. The laws of the federal government must be sustained and its property protected from violence.

"The extraordinary state of affairs in California can hardly be understood at this remote point, particularly when the accounts are conflicting. Statements in the press, emanating from eminent and well known citizens, intimate very strongly that this incomprehensible movement is not to end with what was avowed to be its original purpose, but that graver and more alarming events are contemplated. The president indulges a hope and belief that such conclusions are without substantial foundation. Still, he considers it wise, under the circumstances, to be prepared for emergencies. You will, therefore, have either at Mare Island or San Francisco two or three national vessels, and retain them until the insurrectionary movements at San Francisco shall cease. One of them, if practicable, should be a steamer. You will, however, not order the *St. Mary's* from her present position unless you find it indispensable for the successful execution of these orders, and unless her presence is not needed at Panamá for the protection of citizens.

"The present object is the protection of the public property and officers of the federal government, nothing more. Should you be advised by the collector of customs, the superintendent of the mint, or judicial officers of the United States in the discharge of their duties, the sub-treasurer, or any of the public functionaries of the United States, that the public property is in danger, or that they are molested in the discharge of their duty, you will take judicious but firm steps to afford prompt protection both to the public property and the officers.

"You will furnish a copy of this dispatch to the commanding officer of every man-of-war on the station.

"I am, respectfully, your obedient servant,

"J. C. Dobbin."

The question came up for discussion in the United States senate the 29th of August, when Mr Houston

presented a memorial from the legislature of Texas, praying federal interference. Bell of Tennessee believed but for Terry's rash and quarrelsome nature, which embroiled him in these disputes, the Vigilance Committee would have long since disbanded. He further stated that neither party interests nor disloyal sentiments were involved in this organization. Weller of California disagreed with Senator Bell, and intimated that it was a movement preliminary to open secession. It would give him the greatest pleasure to be able to say that his constituents, all of them, were loyal to the government, but he could not claim for them that honor.

Senator Weller did not relish placing himself in open opposition to so large a body of his constituents as the Vigilance Committee, with its thirty thousand and more advocates throughout the state. On the other side, his party—for he was of the band of lawless disorder, a supporter of Herbert, the murderer, and a man of chivalry—urged him to action in the senate. So Weller induced Senator Pugh to introduce a resolution of inquiry of the president which should call forth some sentiment of sympathy for the law and order party. The trick was very transparent. When California had senators of her own, what special interest was it to the senator from Ohio? And all California sneered, and said—pugh!

By the steamer *John L. Stephens*, arriving September 30th, came the news that President Pierce had at length responded to the requisition by sending orders to the commanders of the military and naval forces on the Pacific to afford the governor of California the aid required to suppress the insurrection of San Francisco. It will be noticed that these instructions were not sent until intelligence had reached Washington which rendered it pretty safe to conclude that the Committee would be disbanded before resort to arms could be had at San Francisco.

But this does not justify the president in his petty

subterfuge. Either he should have sent aid promptly or he should not have sent it at all. There had been no meeting of the legislature in the mean time, no request. All the United States troops then on the coast and the law and order party combined could not have put down the San Francisco merchants. The whole state would have rushed to their rescue. These derringer demagogues and bowie-knife magistrates might have precipitated a bloody war, but until they received further assistance they would have met only with defeat.

CHAPTER XXXIV.

THE GOVERNOR'S WITHDRAWAL OF HIS PROCLAMATION AND MESSAGE.

Even a fool, when he holdeth his peace, is accounted wise.
Proverbs.

Out of pure obstinacy, and in order to reward the fanaticism of his journalistic friends, the governor kept in the public prints his proclamation declaring the city of San Francisco in a state of insurrection, long after the Committee had disbanded. It was of no avail the people complained of the expense. The temptation was too great; next to being a great tyrant his pleasure seemed to consist in being a little tyrant. Besides rewarding Nugent—for as a matter of course the proclamation was printed in the *Herald*—doubtless he thought it might affect elections, might possibly invalidate the claim of successful state or federal candidates to hold office. But in this he was mistaken, for legislative bodies judge for themselves of the legality of the election of their members. It may be he thought to trammel municipal powers; but there again he was at fault, for seldom is a municipal election declared null through any little informality. Besides, San Francisco could rule herself, and the governor, too, for that matter, as none knew better than he. Indeed his proclamation was nullified by the sense of the people as soon as it was promulgated; it was immediately placed under foot by public opinion and there remained a dead letter.

It is the trap the fox complains of, not himself. The reasons given by the governor for not withdraw-

ing the proclamation were that the Committee still held arms belonging to the state which they refused to deliver up, and also that trouble was brewing in the matter of the shrievalty of San Francisco. The office of sheriff had been declared vacant by the board of supervisors in consequence of the failure of Scannell, the incumbent, to renew his bail-bond of one hundred thousand dollars, made worthless by the failure of Palmer, Cook, and Company. Should Marshal Doane, then a candidate for the office, be elected, as there was no doubt he would be, it was said that he would seize the office by force of arms if he could obtain possession of it in no other way. The only real manifestation of the proclamation's presence in San Francisco from the beginning was the adjournment of the district and superior courts from the Thursday after the city was declared in a state of insurrection till the following Monday.

Johnson had arrived at that state apparently, when he was ambitious of popular condemnation. "The delay of this least executive of executives," says the *Bulletin* of the 8th of October, 1856, "this governess among governors, to withdraw his insolvent proclamation declaring our city in a state of insurrection, gives strength to the probability of its being his intention to allow himself to be used as the tool of the law and murder faction, in depriving us of a voice in the formation of our government."

This constant gnawing at the file was wearing the governor's teeth away. Having arrived at the conclusion that a continuance of the proclamation over election-day would do his friends more harm than his enemies, the governor determined to withdraw it. But first he must get the arms if possible; he would make the Committee knuckle to him in something if he could. So he intimated to Mr W. C. Jewett that if the Committee would deliver up the arms before election-day he would withdraw the proclamation, but this the Committee at first declined to do. They

would give up the arms, they did not want them, had never needed them, and never intended to keep them. But they would do nothing which might appear the result of coercion or policy. The governor had issued his proclamation in opposition to the wishes of the wisest; let him withdraw it when he pleased.

But the Committee soon thought better of it. It was a matter after all not worth quarrelling about; their friends advised it and they did it. The governor was making it a pretext, it was said, to continue his anathema in force, and they wisely concluded that they would give it him no longer. These were the arms captured by Durkee from Maloney. The 3d of November they were delivered to General Kibbe, their legal custodian. Kibbe telegraphed the governor that they were in his possession, and the governor replied that his proclamation would be withdrawn within an hour. It was done; and being the day before election the governor was glad. It was the loop-hole for which he had long been looking.

These are the words of it:

"EXECUTIVE DEPARTMENT,
SACRAMENTO CITY, CAL., November 3, 1856.

"WHEREAS, on the 2d day of June 1856, satisfactory information having been received by me, that combinations for the purpose of resisting the execution of legal process by force, existed in the county of San Francisco, in this state, and that an unlawful organization, styling themselves the Vigilance Committee, had resisted by force the execution of criminal process, and the power of said county had been exhausted, and was not sufficient to enable the sheriff of said county to execute said process: I did, in performance of my duty and the exercise of the power and authority vested in me by the constitution and laws, as the governor of the state of California, on the aforesaid day, issue a proclamation declaring the said county of San Francisco in a state of insurrection; and whereas, I have this day received satisfactory information that the causes which required the issuance of the same no longer exist, I do therefore revoke and withdraw the said proclamation.

"J. NEELY JOHNSON."

In his message of January 7, 1857, to the legislature of California, the governor reviews his entire course; and although it is only a somewhat tiresome repetition of what has already been said, in order to

give him a fair opportunity to speak for himself, and that the reader may hear him at his best, I make room for it. It may be that I am prejudiced in my views of his character and motives; if so, the reader will judge for himself.

"Since the adjournment of the last session of the legislature, events have transpired, which, from their extraordinary character and disastrous consequences, must constitute an epoch in the history of the state; events, from the very contemplation whereof the lovers of good order and constitutional supremacy must turn with mingled feelings of sadness and regret. On the 16th of May last, serious apprehensions then existing that a forcible attempt would be made to wrest from the custody of the law a prisoner confined in the jail of San Francisco on a criminal charge, in compliance with a request from the mayor of that city I proceeded thither, earnestly hoping that I might be serviceable in allaying the prevailing excitement, and inducing obedience to the mandates of the law. Upon my arrival I learned that a numerous body of citizens, under the name of the Vigilance Committee, was secretly organizing for the purpose of rescuing the prisoner and inflicting on him summary punishment. Conscious that it was my duty, as executive of the state, to leave unemployed no honorable means of securing submission to the law, and averting a calamity so deplorable as the collision which was threatened, I proceeded in company with several citizens to the place where this Committee had assembled, and announced it as my purpose to communicate with them, or any person authorized to represent them. One of the Committee thereupon presented himself, whose character and position justified implicit confidence in the statement which he made of authority to speak in their behalf, which assurance on his part has been strengthened by the conspicuous station he subsequently occupied as their president.

"During the interview which ensued, it was distinctly stated that the object of this Committee was not to violate the law, or resist its legalized authorities, but rather to aid the officers of justice in preventing the escape or rescue of the prisoner; and that they did not contemplate his punishment by taking the law in their own hands. So loyal were the sentiments expressed, and so positive the declarations made, of their designed obedience to law and the legitimate authority, that I could not either disbelieve or doubt them. On the faith of these assurances, arrangements were then made which it was anticipated would, whilst tending to secure the prisoner, also serve to calm the popular excitement and vindicate the majesty of the law. These anticipations, however, were but brief in their duration, and scarce a day had passed ere this delusion was apparent. The numbers of the Committee multiplied from day to day, and incited by the appeals of an incendiary press to deeds of violence soon the rally-cry was 'Death to the prisoner!' The military, organized under authority of the state, with a few noble exceptions ingloriously deserted the post of honor and of duty, and either abandoned their arms to the state, or yet less honorably carried them into the ranks of the Vigilance Committee. An inconsiderable number of the military officers sought to es-

cape the responsibility of the solemn oath they had assumed, by a proffered resignation of their commissions, whilst others wholly dispensed with this formality, and swelled the ranks of those who were defying the constitution and the laws which they had sworn to honor and maintain. In vain the authority of the sheriff was strenuously exercised to protect the jail. His orders were disregarded and defiance hurled in his face by those who were summoned to this duty, whilst the defection in the military ranks left but a meagre dependence on their aid. Thus situated, with but a handful of gallant men, ready, if need be, to imperil their lives in the performance of duty, approached as he was by thousands of armed men, who from the position of the prison, held complete command, it became evident that resistance involved the destruction of the guard, without securing the safety of the prisoners, and he was therefore reluctantly compelled to yield to the infuriated multitude the victim whom they sought, and yet another inmate of the prison. A few days later, and the utter disregard of the civil authorities which this Committee exhibited was more openly avowed and manifested by the execution of both the prisoners whom they had seized. Neither did their unlawful proceedings find here cessation. So alarmingly increased was their assumption of power and resistance of the law, that at length on the third day of June I was notified by the sheriff of the county that criminal process in his hand had been forcibly resisted and the power of the county was not sufficient to enforce it, and requested to invoke the military power of the state to his aid.

"On the same day I issued a proclamation declaring the city and county of San Francisco in a state of insurrection, under the provisions of section 48 of 'An Act to regulate proceedings in criminal cases,' passed May 1, 1851, which reads as follows: 'Section 48. When the governor shall be satisfied that the execution of civil and criminal process has been forcibly resisted in any county, by bodies of armed men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted, and has not been sufficient to enable the officer having the process to execute it, he may, on the application of the officer or of the district attorney, or county judge of the county, by proclamation, to be published in such newspaper as he shall direct, declare the county to be in a state of insurrection, and may order into the service of the state such number and description of volunteer or uniform companies, or other militia of the state, as he shall deem necessary, to serve for such term and under the command of such officer or officers as he shall direct.'

"Thus it will be seen by the law just quoted, and the demand made by the sheriff, that my duty in the case was plainly indicated, and the issuance of the proclamation, under the existing circumstances, was imperatively demanded at my hands. In consequence of the limited supply in the state armory, the want of arms wherewith to render effective a military force had already been foreseen, and anticipating the probable necessity of such a force, I had a personal interview with the commander of the United States military of the Pacific division, General Wool, on the 31st of May, and procured his promise to furnish on my requisition, such arms and ammunition as I might require, so soon as I issued a proclamation of insurrection. In accordance with such understanding, application was made to that officer immediately after the

proclamation had been issued, and also at a later period, both of which applications, for reasons to himself best understood, were peremptorily refused, and the only arms obtained from that source were a small number of muskets, to which the state was entitled, under the act of Congress providing for a general distribution of arms.

"In the mean while the existence of the Vigilance Committee continued, and assumed the character of a permanent organization, which designed not only to usurp the control of legal authority in San Francisco, but, as indicated by the tone of the press under its special patronage, the inflammatory addresses of its speakers, and the repeated acts of aggression against the most sacred constitutional rights of the citizen, aimed also to extend its power to the subversion of the state authority; and, if federal intervention soon ensue, the establishment of a government entirely independent of the union. In this alarming condition of affairs, I deemed the aid of the general government necessary to our protection, so far at least as rendering assistance in arms and ammunition was concerned. To convene the legislature in extra session would involve an expenditure which the condition of our financial affairs could ill afford; and furthermore, the time consumed in assembling that body and the adoption of the necessary measures might result in the accomplishment of the very evil it was my purpose to arrest. Moreover, I did not deem it necessary that application should be made by the legislature for such aid as the state required, at least in arms and ammunition, but supposed that the president, on the request of the executive of the state, had ample power to direct the issuance of arms and ammunition. Entertaining these views, I addressed, on the 19th of June, a communication to the president of the United States, and deputed the Hon. R. Aug. Thompson and Colonel F. Forman, as commissioners, to present it to him, and endeavor to obtain the requisite assistance. This application proved unsuccessful, as will be seen by the reply of the secretary of state, enclosing the opinion of the attorney-general, as well as the report of the commissioners. The refusal of the president rendered the state authorities powerless to check this usurpation, and for a time the Vigilance Committee held an undisputed sway in San Francisco. It is needless to recount the overt acts which marked the period of their rule. The seizure and employment of state arms, the arrest and imprisonment of a judge of the supreme court, the banishment of citizens, the daily exhibition of bodies of armed men in public places to intimidate obedience to their authority, these constitute but few of the extraordinary incidents of the time. To arrest the treason and suppress the rebellion, the state was powerless, and the authorities were compelled to calmly await the issue of events. In the mean time the executive proclamation remained until the 3d day of November, when the armed forces of the Vigilance Committee having been disbanded, the state arms having been restored to their proper custody, and the judicial authority of the county of San Francisco having notified me that no further difficulty existed in the service of civil or criminal process, the proclamation was withdrawn, a state of peace restored to the community, a legitimate authority reinstated, and the constitution and laws, so long defied, again recognized and regarded.

"I have deemed it not improper to detail the more important incidents of

this period, and without regard to personal considerations have presented an authentic history of my official acts in this connection, in the conscious belief not less than in the earnest hope that by the judgment of the people the shafts of falsehood and calumny will be repelled, and the course of your executive triumphantly vindicated and sustained. In all that I have done or sought to do, I heeded not the plaudits of the populace, nor feared their threats. I know no higher law than the constitution of my country, and as a rule of action alike incessant and inflexible, the observance of the duties it enjoins will ever be paramount in my regard as a public officer and as a private citizen."

This message of the governor called forth the following reply, prepared by Mr Dempster:

"*To the Members of the Committee of Vigilance:—*

"GENTLEMEN: You are aware that your executive committee, willing to suffer misrepresentation rather than awaken controversy or engender ill-feeling, have carefully refrained from noticing or correcting the numerous slanders and misrepresentations which enemies of the late reform movement have so industriously circulated. The undersigned have realized the wisdom of that conciliatory course. We are second to none in the ardor of our desire to have past differences healed, and should not now address you but for peculiar circumstances which, as they involve questions of personal integrity, and, if unexplained, might warrant imputations upon the character of the entire body, justify us in a brief effort to spread before you the facts. Many of you have already observed that Governor Johnson, in his recent message, has endeavored to fasten upon the Committee of Vigilance the charge of having deceived him as to the first object for which that organization was formed. We regret that this forces upon us the necessity of not only showing to the world that Governor Johnson endeavors to hide the sympathy with the Committee which at the time, in the capacity of private citizen, he voluntarily, repeatedly, and unnecessarily expressed to us, but of refuting also the statements by which he endeavors to make a charge of ill-faith against the Committee plausible.

"His statement is that he obtained an interview with a member of the Committee, and that during that interview he received from him assurances that the Committee did not contemplate any violation of law or resistance to the legal authorities, and had no intention of inflicting themselves the penalty of the law upon the assassin; and he further alleges that it was upon these assurances he made arrangements with the Committee to place a guard from their body in the jail. We shall show you, by a brief statement of the facts, that whatever may have been the tenor of this conversation, at which only one member of the Committee, now absent from the state, was present, any such impression, if derived from it, must have been at once dissipated by the interview he immediately had with a sub-committee of the executive committee, appointed to officially confer with him, as soon as it was known that he desired a conference. We beg your attention to the fact that the conference with this sub-committee immediately followed the interview with Mr Coleman, to which Governor Johnson refers. On Friday night, the 16th of May, while the Com-

mittee were in session at Turn Verein Hall, a message was brought in, that some strangers were at the door asking to see some member of the Committee. This message was delivered to Mr W. T. Coleman, who voluntarily went out to see what was wanted, and, shortly returning, reported that Governor Johnson, his brother, W. N. Johnson, C. K. Garrison, and Wm. T. Sherman were there, and desired to have a conversation with some members of the Committee. Immediately a sub-committee, consisting of Messrs W. T. Coleman, E. Grisar, J. H. Fish, E. Gorham, E. S. Osgood, Miers F. Truett, and S. T. Thompson, was appointed to meet them. Governor Johnson commenced the interview by saying that, as a private citizen, he was a sympathizer with the Vigilance Committee; that the abuses here had grown beyond endurance, but that, as governor of the state, he had a duty to perform, and urged that the Committee should be disbanded, and the courts be permitted to try the prisoner, pledging himself that if found guilty he should be punished.

"Mr Coleman replied distinctly that the Committee would not make any such engagements, and went on to say that the people were aroused, etc. He also remarked that fears were entertained that the prisoner might be removed. Governor Johnson replied that he himself had misgivings on the same point; and after considerable conversation it was proposed that the Committee should place twenty men in the jail, the governor saying that he would go himself and place them in there, and asking the Committee to pledge themselves not to make an attack on the jail while their men were inside. Though it was very reasonable that we should be asked to promise not to require our own men to open the doors for us, yet, so well were we aware of the unanimous desire of the executive committee that no pledge should be made binding the future action of the body, that Mr Coleman replied on the part of the sub-committee then present, that we were only a few of many, and that we had no authority to make any pledge before reporting to the executive committee. The sub-committee then went out and reported to the Executive, by whom the matter was discussed. At first the opinion prevailed that no pledges of any kind should be given. It was argued that the Committee was strong enough to take any measures which seemed to them right, and that though it was proper to treat the governor with becoming respect, a desire to entice them into some pledges or promises was so evident on the part of himself and some of his associates, that communications ought at once to cease. It was afterwards agreed, however, that the sub-committee should be instructed to accept, on behalf of the Committee of Vigilance, the right to place ten men, the number being voluntarily reduced by the executive committee, in the county jail, and to promise that while our guard was in there we should not attempt to take possession of the jail. The sub-committee was also instructed to make no further pledges of any kind, but to say to the governor that we would give him notice when we removed our guard. The sub-committee returned to the governor and reported the decision of the executive committee, and Mr Coleman remarked that he desired to have it distinctly understood that no pledges were made, excepting that the Committee of Vigilance would not attack the jail until we had given him notice that our guard was removed; and further than this, almost the last remark made

to Governor Johnson as they parted, indeed it is believed to be the very last thing that was said to him, was in words about as follows, by Mr Gorham:

"'We fully understand each other now, as long as our men, meaning members of the Committee, are in the jail, no attempt shall be made to capture it, or to take possession of the prisoner, but the moment our men are withdrawn from the jail this treaty is annulled.'

"As all parties were leaving the room, Mr J. H. Fish remarked, 'that there was no doubt but that we understood each other now;' to which Mr Garrison replied, addressing more particularly Mr E. S. Osgood: 'Yes, you'll take the jail and hang Casey and Cora, and the Pacific Mail Steamship Company will do the rest.' He at least did not misunderstand the intention or position of the Committee.

"This occurred about midnight on the 16th of May. Governor Johnson, as he left, stated that he would go immediately to the jail and arrange to have our guard admitted. An officer with nine men was immediately despatched, and on arrival admitted.

"The next morning an exaggerated rumor gained currency, 'that Governor Johnson had surrendered the jail to the Committee of Vigilance. It has been stated that, at this time his own partisans severely blamed him, and that he went to the Vigilance Committee and endeavored to make better terms. However this may be, it is certain that the governor at that time sought another interview with the executive committee, and alleged that there was a misunderstanding of the terms of the treaty of the night before. The members of the sub-committee, who had been present with him on that occasion, were immediately summoned, and confronted with the governor and his associates, and so fully was it proved that he was entirely in the wrong, that Mr Garrison, who was one of his associates at the first conference, remarked to Mr W. T. Thompson, that Governor Johnson, in committing himself with the Committee, had damned himself politically. The members proposed to Governor Johnson at once, that he had only to say the word and we would immediately withdraw our men, when he and the officers of the law, and the jail and the prisoners, would be in the same position as if no interview had taken place between himself and the Committee. This met with no response from him, and as soon as he left, the executive committee passed the following resolution, a copy of which was immediately delivered to the governor:

"'Resolved, that we notify Governor Johnson that we maintain the treaty made with him last night, and that the same involved no pledges on the part of this Committee, except that we should make no attack upon the jail while our guard remained within it.'

"At ten next morning, May 18th, orders were sent to our guard to withdraw from the jail. At eleven o'clock a committee, consisting of Mr H. M. Hale, handed to Governor Johnson the following communication:

"'*To his Excellency J. Neely Johnson, Governor:*

"'DEAR SIR: We beg to advise you that we have withdrawn our guard from the county jail.

"'By order of the Committee,

"'33, *Secretary.*'

"As Mr Hale handed this communication to the governor he remarked to him, 'I presume you understand it,' to which after perusal the governor replied that he did; and being without the means of resisting an attack, he could, of course, offer no opposition, but that if he were provided with men he would certainly protect the jail, as the prisoner had been condemned, and would be executed by the law, and closed the interview hurriedly, saying that he had been sent for by the sheriff, and must go up to the jail. The conversation and manner of the governor, throughout the interview, indicated unmistakably that, after the receipt of the note, he expected an immediate attack upon the jail. Upon the report of Mr Hale to the executive committee, that the above document had been delivered to Governor Johnson, orders were issued to the marshal to set his troops in motion, and at ten minutes after twelve the sub-committee appointed to superintend the taking of the prisoners delivered a note to the sheriff demanding their surrender. These are all the essential facts attending every interview between Governor Johnson and the Committee of Vigilance, or any person authorized to speak on its behalf from the organization up to the taking of the jail.

"You will at once perceive, that even if the brief conversation between the governor and Mr Coleman, when the latter first ascertained who it was that wished to see the executive committee, could have produced upon his mind the impression that the Committee did not intend themselves to punish the crime that had been committed, this feeling must at once have been dissipated by the refusal of the sub-committee, immediately appointed officially to confer with him, even to pledge themselves, until after they had obtained authority from the executive committee, not to attack the jail while their own men were inside to open the gates for them, much less to attack it at all. Even supposing that Governor Johnson could have misinterpreted this positive refusal of a sub-committee of eight to make any statement respecting the course of action that would be pursued by the Committee of Vigilance, the broadest charity cannot imagine that he could have misunderstood the official communication of the executive committee, handed to him in writing within twelve hours of his first communication with them, notifying him distinctly that they had not bound the Committee of Vigilance by any pledge or promise further than that they would not attack the jail while their guard was inside its walls.

"That notwithstanding all of the above facts, Governor Johnson should have endeavored to charge duplicity upon the Committee of Vigilance, in his annual message, is deeply to be regretted, and this statement of the actual occurrences is presented to your notice, in order that the misrepresentations of the governor's message may be properly refuted.

"Having disposed of those charges in the governor's message which directly involved the interviews at which we were present, we deem it not inappropriate to allude to those wholesale charges which the governor reiterates in regard to the alleged ulterior designs of the Committee of Vigilance, to wit: The subversion of the state authority, and, in the event of federal intervention, the establishment of a government entirely independent of the union. It is perhaps scarcely necessary to say to our fellow-members that not even an approximation towards such objects or the slightest

approach to a debate upon them has ever occupied the attention of the executive committee.

"EMILE GRISAR,	E. GORHAM,
"HENRY M. HALE,	J. H. FISH,
"W. T. THOMPSON,	E. S. OSGOOD."

Upon this matter the *Bulletin* of the 8th of January 1857 thus comments:

"His excellency endeavors to produce the impression that the arrangements preliminary to the surrender of the prisoners from the county jail were made in pursuance of an understanding that the Vigilance Committee did not intend to punish them, but simply to aid the officers of the law in providing against their escape. This course he then believed calculated to allay popular excitement, but says: 'These anticipations, however, were but brief in their duration, and scarce a day had passed ere this illusion was apparent. The numbers of the Committee multiplied from day to day, and incited by the appeals of an incendiary press to deeds of violence, soon the rallying cry was, "Death to the prisoners!"' The idea endeavored to be conveyed here, is that a great change took place in public sentiment in a single day. In making such an assertion, the governor provides for himself a dilemma. Either he was culpably ignorant of the state of popular feeling, which is tantamount to claiming exemption on the ground of imbecility, or he has falsified the record. His account proves him to have either been incapable of perceiving facts, apparent to any child old enough to walk the streets, or to now be guilty of gross falsehood. There was no time, from the hour in which thousands gathered about the portals of Montgomery block on the fatal night of the occurrence which gave birth to these disturbances, there was no moment that followed the one in which they rent the air in shouts for a leader, when any man of ordinary intelligence could fail to see what course the current of events must take in the contingencies of the death of the martyr. The cry of 'Death to the prisoner' was more thrilling, more vehement then than afterwards. Then the excitement was that of a mob; afterwards it was the result of sad, sober reflection, but in both the impulse and direction of popular sentiments were the same, both noble, both justifiable.

"Of the governor's assumption of bad faith on the part of those members of the Committee with whom he conferred, we have simply to say that we do not credit his assertions, when weighed against those of the men upon whom he endeavors to throw discredit. We will be charitable enough to conclude that his present statement is the result of that weakness of recollection which is perfectly consistent with his intellectual calibre as evidenced by his deeds. His slur at General Wool, and assumption that the refusal of that officer to furnish arms for the wholesale slaughter of our population, for reasons to himself best understood, find sufficient refutal in the fact that the action of the federal authorities subsequent to that refusal were in accordance with that course, and based on similar grounds. His blunder in appealing to Washington in an improper manner, the governor endeavors to excuse on the ground of economy, which is beautifully consistent with other portions of

his conduct. It would cost too much to convene the legislature, but no consideration of cost prevented his enlistment of an army of ruffians, and keeping them in service on paper, long after their material existence had ceased, or induced him to withdraw his proclamation from the papers in which it was insolently and expensively paraded for months. Such reasoning needs no refutal. The ignorance manifested by his excellency throughout his proceedings, renders his statement, that he knows no higher law than the constitution, easy of belief; but we cannot consent to limit his want of knowledge to supra-constitutional authority. There are higher than constitutional rights. If there were not, the Declaration of Independence would be an absurdity and revolutions an impossibility. Whether the course of the governor or that of our community has been most in accordance with the principles of human freedom and civil liberty, we are quite willing to leave to the judgment of that posterity which will only remember J. Neely Johnson as a pebble which once lay in the way of California's progress; a name rescued from oblivion only by the accident of its being written on the pages which record great events, and destined to a fame of which he has no reason to be proud. The slur against the president of the executive committee can be easily refuted, and the falsehood fixed on the governor as readily as in the case of his misrepresentations of the conduct of General Wool, Colonel Zabriskie, and General Allen."

A candid review of the governor's course from first to last cannot fail to carry with it the conviction of his unfitness for the emergency, of his weakness as a ruler, his duplicity as a politician, and his dishonesty as a man. He first tacitly sanctions the action of the Vigilance Committee by counselling with them as to the best course for removing the unhanged villains, and advising the sheriff to yield them up Casey and Cora; then, at the instigation of blood-thirsty advisers he exhausts his puny efforts to deluge the streets of San Francisco in the blood of her best citizens. His proclamation was ill-advised, illegal, and filled with false statements. Upon his own commissioners, Zabriskie and Allen, men of spotless reputation, the daughter of one of whom was his wife, he turns his back, and like Peter denies them in the presence of his friends. His statement concerning General Wool that officer flatly contradicts, and his letters to the people were filled with statements tending to misrepresent and falsify both the object and the action of the Vigilance Committee.

"Too cowardly to oppose the Vigilance Committee at its outset," says one journal; "too tyrannical to give it his adhesion when its manifest object was the reëstablishment of popular sovereignty, Governor Johnson has secured the friendship of no good man on either side, and is in full enjoyment of the hearty, unanimous contempt of both."

Two years later, under a new governor, the complaint is continued. Commenting on the message of Governor Weller in June 1859, one writes over the signature "Censor," first quoting from the message:

"'It is made my duty, by the constitution, to see that the law is faithfully executed. I deeply regret to say, that during the past year I have, in several instances, been compelled to know that it was shamefully violated. Since the adjournment of the last legislature I have learned through the public press, not a single case having been reported to me officially, that some seven or eight persons, in different sections of the state, have been executed in violation of the law. It was hoped that the feverish excitement produced by the loose manner in which the criminal laws were administered some years since, had passed away, and that Californians had become a law-abiding people.' When, where, and of whom does the governor learn of 'feverish excitement produced by the loose manner in which the criminal laws were administered'? I have seen none, except those who feared just punishment. The most cool and deliberate transactions I have witnessed in the state are those where the solid men of the country have performed the duties neglected by the officers of the criminal law. The sober, discreet, industrious citizens of California are law-abiding people when the laws are honestly administered by those whose duty it is to administer them properly. But if they fail to do their duty, the sober, second-thought portion of the community themselves coolly, deliberately, and dispassionately administer the laws regardless of the whimperings of those delinquent officers and their satellites, and stand ready, at all times, to face the consequences in this world, and at a proper time in the spirit world. 'Now that these abuses have been corrected,' continues the governor, 'we had a right to expect that the law would be allowed to take its course, and no one executed until his guilt was fully established in the judicial tribunals. There can be no security for either person or property where such outrages are tolerated.'

"From where and from whom does his excellency derive information that these abuses, the loose administration of criminal laws, have been corrected in all the districts in the state? It is true the desired corrections have taken place in the city and county of San Francisco and in some other localities; but it is not true that they have been corrected throughout the state, and the people of special localities are the best judges of that fact. Persons at remote distances, however learned and skilful, cannot be the best judges; and to evidence that assertion I need only refer to the two deceptions con-

fessed by Governor Weller to obtain unmerited clemency under the pardoning power. Unfortunately for the state and his excellency, it is the profligate and vile who most frequently seek his ear, and hence the necessity of greater caution in giving credence to the information volunteered. Where does Governor Weller obtain his evidence that there can be no security for either person or property where such outrages as popular hanging are tolerated? Where in California are persons and property more secure than in the city and county of San Francisco, and where have there been more capital punishments executed by the people, and justly too? Can it be possible that his excellency stands in fear of bodily harm at the hands of the people of this state? Is he a travelling arsenal like the scoundrels whom the people have hanged in consequence of such fears? 'The governor is powerless,' he says further, 'when the county officers, courts, and juries, neglect or refuse to discharge their duties.' Here is a truth as manifest as any truth ever uttered by any one of the apostles. The governor is powerless, but the people are not, as has been shown in numerous instances. 'It is true that these acts were perpetrated by a few excited and reckless men; but it is clearly the duty of all good citizens to aid in bringing them to justice.' Here is a downright, barefaced falsehood. It is not true that these acts were perpetrated by a few excited and reckless men. The men who performed these lamentably painful duties did not perform them as a pastime: they were actuated by the first law of nature, self-protection. 'The frequent recurrence of these executions, and the total failure of courts or juries to prosecute, is calculated to retard the settlement of the state, and turn the tide of immigration in a different direction. Men will not like to bring their families into a community where their lives and property are at the mercy of an infuriated populace.'

"Are either of these sentiments true, understood as intended by the governor? Take, for example, the city and county of San Francisco. There is no locality in the state where so many desperadoes have been hanged by the populace as there, and the streets are thronged with mothers and children, and there is not a vacant tenement in the city. Theories must always give way to stubborn facts. Where is this infuriated populace of which his excellency seems to have such a holy horror? I have spent much more time in the state than he has, and have failed to discover it. 'When bad men unite to take the law into their own hands, to avenge their wrongs, whether real or imaginary, good citizens must combine to bring them to punishment, or else there is an end to all government.' When and where have bad men united to take the law into their own hands to avenge their wrongs, real or imaginary? Bad men have united to take the law into their own hands through frauds at the ballot-box, for the purpose of escaping merited punishment; and good men have combined to avenge the wrongs perpetrated by these bad men and their co-workers, and have performed their duty most effectually, in many instances to the great benefit of the state. Men who prowl about the country living on black-mail and free-lunch stealings, armed to the teeth ready to blow the top of the head off, or cut the heart out of any man who will not do their vile biddings, had best take warning, lest their turn should come on too short a notice for available repentance. It is only on extraordinary occasions that they have in their possession the weapons of murder, while bad men are walking arsenals."

Weller succeeds Johnson as governor. Weller is more of a man than Johnson, yet Weller's sown dragon's teeth fail to produce him anti-vigilant soldiers. Weller is thoroughly law and order; he is obliged to be so or his party would discard him very quickly; and as politics is his vocation, surely he may labor in it. His *pronunciamientos* against vigilance are harmless, but he never misses an opportunity of uttering them. Like Napoleon, Weller despised ideologists. Ideas demand of every why a wherefore, and Weller could not bear to have his logic questioned. Conservatism hates ideas, and so do law and order. The *élite* of scoundrelism had gathered in California, and in the garb of well dressed politicians it flourished on the streets of San Francisco, until disarmed by the death of trickery. It sounds harsh, but it is true, that the law and order party of this time, and for three years previous, was an organization for the promotion of murder, a society for the suppression of virtue.

Law was their inexorable necessity, and their reasoning was as the logic of Clytemnestra when she pleaded with her son Orestes, who was about to slay her for the murder of his father, the great Agamemnon. "Fate," she cried, "compelled me to the crime." "And fate," replied Orestes, "now ordains your death."

CHAPTER XXXV.

THE EXPATRIATED.

'Twas for the good of my country that I should be abroad.

Farquhar.

THE act of expatriation, as I have before remarked, was not after all so very cruel. It amounted in most cases to a free passage for some devotee of the derringer, election bludgeon-brandisher, or other social vulture, who having terminated his career in California, having wrought all the mischief possible here, now sought another clime where, being unknown to the police, he might begin anew. Travel being prescribed, and the noxious individual being out of money, as those who live upon the public usually are, he was duly provided for and escorted to the vessel by the Committee. So that a verdict like the following: "Mr Cunningham, you have been found guilty of passing altered coin and of robbing the dead. Your sentence is that you leave this state never to return under penalty of death," signifies to Mr Cunningham that his passage hence will be paid, but stipulates that he must not return. But why should Mr Cunningham wish to return? Can he not do better in a country where the dead have not yet been robbed?

Thousands of honest men in those days would have gladly availed themselves of such an offer; but honest men must pay their own fare when they travel.

In the following manner application was made for leave of absence by the expatriated:

"SAN FRANCISCO, 5th July, 1856.

"*To the Executive Committee of the Committee of Vigilance:*—

"GENTLEMEN: Being desirous of leaving to-day by the steamer for Panama, I would request your permission so to do.

"I am y'r ob't sv't,

His
"LEWIS × MAHONEY.
Mark.

"Witness, R. B. WALLACE."

By the Panamá steamer *John L. Stephens*, sailing the 5th of July, were shipped by the Committee, after full investigation and decision, six more of their prisoners, notorious in the annals of crime, J. R. Maloney, Dan Aldrich, T. B. Cunningham, A. Purple, L. Mahoney, and T. Mulloy. All expressed themselves as satisfied with the justness of their sentence. Without stir or display they were taken from the rooms about three o'clock in the afternoon, placed on board the steamer, and closely attended until the vessel was under way, when the guard returned in small boats, as we have seen.

Some of the prisoners wrote the Committee occasionally, making known their wishes in that way. Mr Cunningham was a frequent correspondent. I give a sample of his letter-writing:

"VIGILANCE COMMITTEE ROOMS, Sunday, 3 o'clock, P. M.

"*Executive Committee:*—

"GENTLEMEN: I hope you will excuse my forwardness in addressing you so often. I can assure you that, situated as I am at present and under the existing circumstances, life is a burden to me. For the sake of God and my helpless family will you not grant me the time which I so earnestly desire of you? If not, I hope you will take such prompt action as to alleviate my sufferings by sending me away out of the country. I would much like it, as confinement does not agree with me, and if I have to remain here much longer perhaps God would save you the trouble of my company. I trust therefore you will grant one or the other of my requests as speedily as your honorable body may deem expedient, and your petitioner will forever pray.

"I remain yours, etc.

"THOS. B. CUNNINGHAM."

Another thus writes:

"SATURDAY, July 19, 1856.

"*To the Gentlemen of the Executive Committee of Vigilance:*—

"The time having almost expired allotted me to depart from this my adopted home, I make this my first and last appeal to your mercy and clemency. Gentlemen, I place too much trust in your magnanimity to think you would injure me in any way but by my removal. My home has cost me over two thousand dollars, which I cannot dispose of unless at a very great sacrifice. Gentlemen, if you have any doubts of my statement, call at my house and satisfy yourselves. If you will but consider, gentlemen, I was kept prisoner four days, and only from Wednesday to settle my affairs. Gentlemen, I pray you more time or an opportunity to vindicate myself through gentlemen such as E. Smith of the Mercantile Hotel, Capt. A. F. Scott, Lieut.-Col. Ellis, G. Gilman.

"Yours, obediently,

"JOHN COONEY."

At the meeting of Sunday the 20th of July it was ordered, "That McLean shall leave in the steamer of to-morrow for Panamá and that his passage be paid by this Committee on condition that the same be refunded from the proceeds of his property, by Mr Baker, who is authorized to settle the same. Also, that the said McLean shall sign a confession of his guilt, and the appeal for permission to leave this state, with a pledge never to return." William F. McLean, Jim Burke *alias* Activity, Abram Craft, and Jim White departed by this steamer, again leaving the cells empty, save those of Brace, Terry, and Green.

The 27th of August at a meeting of the executive committee a motion was made and carried that I. S. Musgrove, late supervisor of the county, be notified through the daily papers that the privilege was given him of leaving the state on or before the 20th of September, never to return, failing in which he subjected himself to the usual penalty.

John Stephens having assaulted Edward D. Jones, a member of the Committee of Vigilance and a messenger of the 23d Company, for his acts as member of the Committee, on the 28th of August it was resolved by the executive committee that he be ban-

ished from the state, and that he leave on or before the 5th of September, never to return.

Out into the world, back to those who sent them, hence these evil-omened parasites were driven, and joyously many of them went, joyous that no worse fate had befallen them. In various ways they demonstrated their appreciation of the blessings of liberty. Not unfrequently passengers by the steamers that carried them missed money or articles of clothing. Some, like Billy Mulligan, watched the hotels of New York or New Orleans, and exercised themselves in letting fly from the shoulder their fists on any luckless Californian they happened to find who had not law and order written on his lineaments. Burke and White narrowly escaped meeting a watery grave at the hands of the incensed passengers of the *Illinois* for having stolen three hundred and sixty-four dollars from a Mrs Herman. Purple stole twenty dollars from one of the passengers. Aldrich swore he would go back; but he seemed to be in no haste to do so.

The 24th of July the vigilant police informed the Executive that Edward Bulger, a prisoner shipped by the Committee to Honolulu, by the bark *Yankee*, had returned by the same vessel. An order was issued, and the man was arrested.

This was the only instance where an exile returned during the active operations of the Committee. It was the custom to allow those sentenced to banishment to select their own place of exile. Mr Bulger thought the balmy air of the Hawaiian Isles conducive to a life of retirement upon hard-earned laurels, and so it was, and would have pleased him well had the people at large anything to steal; but after he had taken a look at the country he concluded to return and risk a hanging. Such was his answer to the Executive when arraigned before them for a disobedience the penalty of which was death.

Bulger did not seem to realize his position. The Committee were not accustomed to say what they

did not mean; they were not the men to promise and not perform. They sought the death of none. They regretted that any one against whom the death edict had gone forth should have the hardihood to return and place his own neck in the halter. But were it a son who disobeyed he should die for it; and they wondered at this man's temerity, his indifference to the awful fate awaiting him, for they saw no means of escape for him.

"Are you aware that the sentence of death is hanging over you by reason of your return?" asked the president of Bulger when brought for examination before the Executive.

"No," was the reply.

"Were you not told when sent away that if you returned your life would be forfeit?"

"No."

"What!" exclaimed the president, who could but regard the statement as false, "were you never notified of your sentence of banishment?"

"Never; I was merely tried and sent away."

"We will look into the matter," said the president. "For your sake I hope what you say is true; if not your life is surely forfeit."

It was the custom of the Committee to frame the sentences of banishment; and it was then made the duty of one of the members to go around to the cells and read them to those so sentenced. Bulger was now put on trial for his life. Half a dozen members of the Committee were examined. Finally the member appointed to notify this prisoner of his sentence was found and called upon to testify. The member said that although he did not recollect this particular case he had undoubtedly followed the rule. Bulger was now keenly alive to the perils of his position, and his dull wits began to work. His chances for a green old age began to look very dark. Greatly excited he turned to the testifying member and said:

"Do you not remember that when you came to my

cell I asked you to read to me a letter which I had just received from my mother, the contents of which so affected me that I wept like a child? You went away from my cell without reading me any sentence whatever."

Bringing his fist down upon the table with a ponderous oath the member exclaimed, "You are right! I now remember the incident perfectly well. Gentlemen," said he, turning to the Committee, "I await your censure; and in common with all of you rejoice in this man's almost miraculous deliverance." Bulger was sentenced, as before, to leave the state, never to return, under pain of death. He departed gladly, and with the decree of the Committee so graven on his mind as to keep it in vivid remembrance to his dying day. In these proceedings the delegates concurred.

The steamer *Sonora*, which sailed from San Francisco the 5th of August, relieved the Committee of Mike Brannigan, H. F. Foy, Edward Bulger, and John Cooney, while the *Sierra Nevada*, sailing the same day, carried away Chris Lilly.

After the Committee had retired its efficient force, several returned, though none were ever taken. Martin Gallagher returned from Honolulu by way of Puget Sound in the bark *Glencoe*, arriving at San Francisco Bay the 5th of October 1856. Under the assumed name of Wilson Hunt he had shipped for Puget Sound, and thence worked his passage to San Francisco. Immediately on coming to anchor he slipped on shore and disappeared. The Vigilance Committee were soon on his track, but Martin eluded them and finally escaped with a newly married wife by the *John Stuart*. Indeed it was Martin's love that had brought him back at the imminent risk of his neck. The devoted woman who was to become his wife offered to follow him into exile, but he informed her that he should not remain at the Islands, but would call for her and take her away. The wife and two children of Bill Lewis accompanied Gallagher to Callao, where the ex-

patriated husband and father awaited them. Surely love knows neither station nor behavior.

Gallagher was a night-watchman in the custom-house at the time of his arrest by the Committee. He was tried by the Executive, and convicted of being a disorderly character, a pest to society, and a nuisance. From South America he returned, arriving by the *Golden Age* the 14th of January 1858. Having been in the service of the United States, and the United States judges then sitting in San Francisco being opposed to the action of the Vigilance Committee, Martin thought his chances better in a suit before them than before the courts under the more immediate direction of the people. Hence he soon after proceeded to libel the bark *Yankee*, James Smith master; and notwithstanding it was proved beyond question, that when the tug *Hercules* came alongside after the vessel was out at sea, and the expatriated stepped on board, the captain of the bark asked them distinctly and severally if they wished to go to the Sandwich Islands, and each for himself replied that he did, and although they were treated in every way during the voyage not as criminals but as first-class passengers, yet the kind court gave Martin three thousand dollars.

Regarding this decision the *Bulletin* of the 19th of January 1859 says: "After carefully perusing that paper, over and over again, our first impression becomes more confirmed, that the result is owing to the personal prejudices entertained by the judge." Mr King then goes on in strong language to give his opinion of courts and judges in California at this time, and then continues in a somewhat milder strain: "He has done more than that; he has made a mischievous precedent, which will encourage certain infamous people to institute proceedings against the good citizens of San Francisco, that must necessarily cause annoyance and irritation, and end in the engendering of more bad blood and ill-feeling in

our already disturbed and too much divided community. At this juncture this decision is a public misfortune. Just as the bitterness of the past was fading out, this federal judge transcends his duty to stir up the embers, and again fan the fire into a consuming blaze."

When the case was appealed to the United States circuit court, there appearing no reason from the law and evidence to decide otherwise in the case, the former decision was confirmed. The suit was brought for the recovery of damages for a maritime tort. In the first place no wrong had been committed, and in the second place these judges ignored the fact that at the time of Gallagher's arrest the Vigilance Committee was the government *de facto* of San Francisco, wielding supreme power of life and death over all who entered the Golden Gate. These judges were very quiet then; very deferential to the principle and *personnel* of vigilance. And as they never dared to quite satisfy their bruised pride upon the members of the Committee themselves, this ship-captain should not escape although he had simply obeyed the mandates of the then existing government, which perforce he was obliged to obey. Such is the equity and honesty of law. Afterward Gallagher endeavored to sell his judgment to the Committee for two thousand dollars, but they would not purchase; from which circumstance, together with the inquiry as to the state of vigilant forces in case of an emergency, it looked as though the Committee did not intend to pay it.

Charles P. Duane, sometimes called Dutch Charley, as we have seen, was arrested and brought to garrison the 1st of June. Two days afterward he was sentenced to transportation, which was carried into effect by placing him, in company with Mr William Mulligan and Mr Woolly Kearny, on board the *Golden Age* the 5th of June, Martin Gallagher, Billy Carr, and Edward Bulger being shipped at the same time by the bark *Yankee* for the Hawaiian Islands.

Hints had been thrown out to Duane that he would do well to leave the city, but he paid no attention to them, swearing that no twelve men under the canopy of heaven should take him alive. Empty as space are the oaths of the bully. He always carried a dose of poison on his person to cheat the hangman with, he said, though there never was the slightest danger of his taking it, nor would any good man have mourned had he done so.

Arrived at Acapulco, Duane made his escape from the steamer, and there remained some eleven days, until the *John L. Stephens* from Panamá, bound up, entered the port. On his way down he had expressed his determination to return at any hazard. It was here the *Stephens'* officers and passengers first learned of the new social regeneration then transpiring in San Francisco, of the doings of the Committee and the names of the expatriated. Presently Charley came on board, and was at once the centre of a curious group. He said he had been unjustly treated and wished to return. The captain, however, would not permit him to take passage. Charley then disappeared. When the steamer was ready to sail search was instituted, and as he was nowhere to be found it was thought he must have gone ashore.

Such was by no means Charley's intention. When the steamer was fairly at sea, the purser, who had gone to the barber's shop to be shaved, entered his room, and there much to his surprise found Charley comfortably seated in his chair. He immediately informed the captain, who ordered that Duane should be treated as a stowaway and put ashore or transferred to some other vessel at the first opportunity.

"Captain," begged Duane, "let me go back. I will pay my fare; I will give myself up to the Committee immediately on landing; let them do with me as they please, I cannot go elsewhere and hold up my head."

"But they will hang you higher than Haman," replied the captain.

"Captain," exclaimed the evil-doer, "I would rather die in California without touching ground with my feet than live a prince in any other country!"

It was all, however, of no avail. Captain Pearson knew that this offender had been shipped from San Francisco for a good purpose, and he would not interfere with the city's purgation. Off the gulf of California the steamer *Sonora* hove in sight bound down, and the captain ordered Charley transferred. On looking for him, however, he was missing.

"I will have him out of here if it takes me a fortnight," exclaimed the captain. After searching some time, this so devoted lover of California was found snugly stowed under one of the quarter-boats. Here again Duane threatened, knife in hand, any who offered to touch him. But he was brought out and put on board the downward-bound steamer. From Panamá he was taken to New York. The companions of Duane shipped by the Committee made no effort to leave the steamer at Acapulco with him.

However sinful, the fraternity found friends wherever they went. We have seen that Charley offered to pay his fare to San Francisco. Now Charley had no money. Money is not necessary to some people in travelling. Why should one whose profession it was to prey on his fellows require money in mingling with them? Was not the world his oyster? In this instance Charley found several good friends, some of them high in power, with kind hearts and of no small influence, ready with the money to pay his fare, and even insisting insinuatingly that the captain should take it; after which we are not greatly surprised to find Charley befriended by others.

Dr J. D. B. Stillman, from whose dictation I quote, was surgeon of the *Stephens* at the time. "He was a bully and a high-cockalorum on board the ship," says the doctor. "If he wanted wine or anything else he got it; they gave him whatever he asked for because they did not dare to refuse him. A high

official, one of the passengers on board our steamer, advised Duane not to leave the ship unless they used force to put him off, and if they did then to go. The official was in high dudgeon, considering that an outrage had been committed on the high seas, for which the officers of the ship and the company ought to be made responsible and punished. That was all that saved Duane's life. If he had come back at that time, at the height of the excitement about Terry, he would have swung before sundown."

At Panamá Duane created so much disturbance that the authorities requested him to depart, but he declined, and claimed protection from the United States consul. In New York, becoming tired of life, he took laudanum to kill himself withal; but unfortunately he overdid it.

Charley returned to San Francisco in 1860, still breathing vengeance. He seemed to be as much incensed against Pearson as against the Committee; at all events he regarded his chances for money better in that quarter, for he immediately brought suit in the United States District Court, and obtained judgment for four thousand dollars. The supreme court, however, reversed the decision, and the four thousand dollars was cut down to fifty.

The trial lasted a long time. Says the *Bulletin* in speaking of it the 3d of December, 1865: "Duane is in luck. Exile furnished him a fine capital to draw on ever since. It gave him a standing claim on sympathizing friends who suffered with him, and some who escaped his punishment; on democratic legislatures, and generous boards of supervisors. Last of all comes a handsome *douceur* of four thousand dollars; but we suspect the case is not ended. It will doubtless be appealed, and if justice is not as deaf as she is said to be blind, it may take some time yet for him to see the color of that four thousand dollars damages for being saved from hanging."

Duane likewise filed libels against the steam-tug

Hercules, Goodall master, and the steamer *Golden Age*, Captain Watkins, which were compromised. The aggregate damages in all these suits claimed by him amounted to one hundred and twenty-five thousand dollars. With the judges usually against them, these suits were extremely annoying to the Committee.

Billy Carr was once a printer in New York city. Coming to California he became gentleman politician, was arrested six times for assault and battery, and once for murder, and was once judge of a first-ward election. It took him five days to count the votes and arrange the returns to suit him, which work was performed, contrary to law, with closed doors. In election fights he was very quick. He was arrested twice at the Sandwich Islands for assault and battery, and once for being drunk.

The end of Lilly comes to us in a letter from Panamá: "Lilly having been expelled by the Vigilance Committee in 1856, went to Nicaragua, where he traded and gambled by turns, and finally fitted out a little schooner, which he loaded with coffee at Puntarenas de Costa Rica, to sell to Walker. The filibuster chief bought a portion of his coffee, and taking in some cocoa, Lilly cleared for Manzanillo, in Mexico. Getting disabled, he put into Realejo, where he found Knote with two vessels. Knote advised Lilly to go to La Union to repair, and took him in tow. On his arrival there he took him and his companion, Yates, on board his own vessel, and put them in irons under a charge of being filibusters. He confiscated to his own personal use the coffee and cocoa, and took away from Lilly some fifteen hundred dollars in money, a splendid diamond brooch, and other jewelry. After several days Knote ordered a file of marines into the hold of the vessel, and, while the two men were confined in chains, had them shot. Lilly died immediately, but Yates, in his agony, dashed out the brains of his dead companion with his irons. Knote then went out of

the harbor under the pretence of getting water, and threw the bodies into the sea. Of course it is right that reparation should be demanded for this horrible outrage. But isn't it a little strange that one of our national vessels should be ordered away from a port where, two years ago, seventeen, and God only knows how many more, honest Americans were just as brutally murdered by the New Granadan police, to seek reparation for the murder of a man who was notoriously a bad citizen, and who, it may prove, was engaged in filibustering against the honor and interests of his country?"

Of Lewis Mahoney, exiled by the people of Contra Costa County, in the summer of 1856, we have bad accounts. He returned, was arrested, imprisoned at San José, escaped, and afterwards appeared at Oakland, where he committed a robbery, and was finally caught and imprisoned. He was captured one morning, about sunrise, at the house of a Frenchman, called French Jim, between San Leandro and San Antonio, in Alameda County.

"It appears that Mahoney had sold French Jim a horse the week previous," writes one, "and that morning went to get the balance of the money. He was mounted on a fine gray horse, and had a splendid Spanish saddle, worth seventy-five dollars, which he had stolen from Estudillo. French Jim, who in the mean while had learned with whom he was dealing, arrested the thief and conveyed him to San Leandro. He was put on the stage for the purpose of taking him back to San José, from the jail of which city he had escaped; but in the mean while the robbery of the Spanish saddle became known, and he was retained for trial at San Leandro on that charge. Mahoney has been figuring rather largely in the papers lately, on account of the robbery of the Boston House, in Oakland, of three hundred and sixty dollars. He applied for lodging there one Saturday night, and was taken in; but in the morning he was missing, and the money with him.

Nothing more was heard of him till French Jim, to whom be the credit, arrested him, as above stated. Mahoney also figured some months ago in San Mateo, where he was arrested before being taken to San José. It will be at once seen that he is an active and audacious rascal, and well deserving the utmost severity of the law. When Mahoney broke from the jail at San José, on the night of the 3d of September, two other prisoners, named John Norton and John Cain, escaped with him. It is believed that Cain was shot by the deputy-sheriff who was in pursuit, but was rescued by his friends. The sheriff of Santa Clara County has been out for some time with a posse in search of the fugitives and their harborers."

On the authority of the *Alta*, "Michael Brannigan, one of those expatriated by the Vigilance Committee, left New York on the *Texas* on the 24th of September last, and, loudly protesting his innocence and threatening all sorts of horrible feats, announced his intention of returning to California and sacrificing himself. He was escorted to the wharf by Mulligan, Duane, and Crow. The first few days at sea he kept quiet, but after that launched out in a tide of drunkenness and blackguardism. On the river boat he was intoxicated, and exposing his person indecently in the cabin he was expelled by the passengers. Shortly afterward he disputed with a negro about a dollar, when one of the passengers interfered and pummelled Mr Brannigan severely. The captain then had him tied on the lower deck. At Virgin Bay one of the soldiers whipped him also, and it was hard to tell what color his face had been the morning previous. Captain Blethen, of the *Sierra Nevada*, refused to allow him to proceed to this port."

But Mike was not to be thus put down. A reporter at the Stockton state fair, on the 28th of September 1857, thus writes: "Mike Brannigan, the Vigilance Committee exiled hackman, arrived here a day or two since, from Sacramento, bringing over a

fine carriage which he intended to run during the fair, and thereby make a pretty penny. Mike's plan was not a bad one, as there doubtless will be more demand for coaches than the limited home supply of a small place like this can answer. But, unfortunately for him, while loitering about waiting for the work to begin, he assuaged his thirst too often upon bad whiskey, which tended to inflame his passions. Having nothing or nobody else to find fault with, he just cavorted around loose, and pitched into the Vigilance Committee. 'This is a law and order town,' said Mike, 'and a gentleman can here have satisfaction out of the cowardly vigilants.' Presently Mike got too noisy; so he was pounced upon by a constable and marched off to the calaboose, and this in spite of his pertinacious declaration that he was a law and order man, and that he always thought that Stockton was a law and order town! Next morning Mike was arraigned before a squire, on a charge of being noisy and disorderly. He denied being guilty, and claimed a jury trial. A jury was summoned composed of simon-pure law and order men, who patiently heard the evidence, and found that Mike was guilty! He was sentenced to pay a fine of thirty dollars, and to ten days imprisonment; and now lies in durance vile, which will continue for six days. I fear he will be at least a day after the fair with his coach."

Mr Billy Mulligan carried with him to New York all his wrongs carefully wrapped in his bosom. Associating there with rowdies of his own class, he amused himself by watching the arrival of vigilants at the hotels and assaulting them.

"You are the man, are you, who helped to drive me out of California?" he exclaimed to Hiram N. Webb as that gentleman, on the evening of the 21st of June 1858, was standing in the bar-room of the Metropolitan Hotel. With these words, Mulligan dealt Webb a blow which rendered him almost senseless.

Mulligan was protected by his friends. Arrested next day, he underwent the form of trial, and was discharged. This is but one trifling example of what travelling vigilants were subjected to for years after the crusade had closed.

Billy found plenty to do in New York. During these years we find him often before the police and other courts. He had a quarrel with John Morrissey, the famous pugilist, in January 1860, which resulted in the very non-professional way of settling difficulties, pleading before a justice of the peace. Out on bail, he was again arrested before the next morning. And so on.

The New York *Express* in an obituary of the arch-villain says:

"The death of Billy Mulligan creates considerable excitement in this city, where he was well and unfavorably known as a pugilist of the lowest character, no regular prize-fighter even, caring to associate with him, as he always found means to escape from a regular prize-fight. He was a cooper by trade, but eschewing that honorable calling for the pleasures of the gambling-house, he, at an early date in the history of California, emigrated to that state, where he spent much of his life of dissipation, and becoming mixed up with the Broderick will case, was, in 1856, invited by the Vigilance Committee to leave. Returning hither he continued his career as a blackleg, and one night shot officer Oliver, of the fifteenth precinct, at No. 626 Broadway, while in the discharge of his duty. Billy was tried for this before Judge Gould, and on the 20th of December 1860 sent to Sing Sing for four years and six months, J. T. Brady and Richard Busteed appearing for him. While under sentence at the Tombs he married Mary A. Lewis, a keeper of a house of prostitution in Houston street, whom he afterwards deserted. The supreme court admitted Billy to bail, pending a new trial. He then aided in raising the Empire City Regiment for the war, but was not permitted to leave the city as its lieutenant-colonel. Grieved at this, he left for the shores of the Pacific, where he met with his untimely end."

Mulligan came from Ireland to New York at an early age, and thence to California in 1850. He was a prince among the political roughs of the day, a man of great authority in his party. No aspirant for office was too proud to do him reverence. In almost every nominating convention he had a seat, and was more than ordinarily conspicuous and influential in that famous body which sold state and municipal elections

at such large prices, receiving twenty-eight thousand dollars for that of mayor alone.

The last day of January 1864 saw Billy back in San Francisco. He was warmly received; indeed so warmly that he narrowly escaped hanging. Eight years was a long time for so faithful a devotee of the dram-shops to be away, and yet the curb-stones on Montgomery street seemed not to have forgotten him. Some thought that news of Duane's success with Hoffman and McAllister brought Billy back, but it was not so. Mr Mulligan was not mercenary. He was a philosophic villain. As long as his meal-barrel and brandy-bottle were not empty he cared little for the rest. Thus Billy basked in the sunlight of his New York and San Francisco fame, dressing elegantly, and eating of the best while in San Francisco at the St Francis Hotel, fronting the upper Clay-street corner of the plaza, until midsummer of the year following.

Billy's disposition was like a wayside pool, which when undisturbed smilingly glistens in the sunlight, but stirred it becomes thick with muddy wrath. The death of this man was strange—stranger than his life. For some time previous to the 7th of July 1865, on the afternoon of which day he met his end, he had been troubled with delirium tremens, and lived in constant dread of the Vigilance Committee, lest they should come and take him. So oppressed was he by this idea that the night of the 6th he could not sleep in his bed, but gave himself up to the police for protection. He was locked in a cell for the night, and in the morning, appearing calm, he was set at liberty. Thence he proceeded to the St Francis Hotel, locked himself in his room, and barricaded the door. About nine o'clock a Chinese launder at work opposite was surprised by a bullet which came crashing in through his window and lodged in the wall in uncomfortable proximity to his head. Investigation proved it to have come from Mulligan's pistol fired from Mulligan's

window. An attempt was made to arrest him, but the officer on approaching his room was warned back. He swore the Vigilance Committee should not take him alive. Strategy was resorted to. An officer on the street sought to attract his attention, while another stood on the balcony close by his window ready to seize him the moment he put his head out. Mulligan saw the man on the balcony, and fired at him, the ball just grazing his head. This proceeding roused Mulligan to frenzy. He came out upon the balcony, pistol in hand, blaspheming incoherently, and walked round from the front to the Clay-street side, where he entered at another open window. It was now thought to try him with his friends, but those who knew him best were least inclined to approach him. Finally one Jack McNabb, an old and familiar companion, undertook to pacify him. Ascending the stairs of the hotel he called to Mulligan in a friendly way, saying he had come for him to take a drink, and like pleasant remarks. Mulligan levelled his pistol at him and warned him not to come near. McNabb continued to approach, at the same time speaking coaxingly to him, until when within a few feet of him Mulligan fired, the ball entering the right breast near the armpit and causing death within half an hour. Poor McNabb! It was a brave act, and for a noble purpose.

The excitement now became intense, and round the hotel the streets were densely packed with people, who like simple sheep thus congregated within range of a madman's weapon. Various expedients were tried to bring him out, but all were unsuccessful. So matters continued until three o'clock in the afternoon, when the officers made another unsuccessful attempt to secure him. As officers were crossing the street on their way back from the hotel, Mulligan appeared at the window and fired at them, but the ball missing them struck a passer-by, one John Hart, foreman of Eureka Hose Company, Number Four, killing him instantly.

The bloody tragedy had now continued long enough, and it was determined to shoot the maniac at sight. Officers were stationed on the street and in rooms opposite the hotel, armed with Minie rifles, for this purpose, but Mulligan for a time kept himself out of view. Shortly before four o'clock he was seen to ascend the stairs to the upper story of the hotel and look out of a window on the Dupont-street side at the crowd beneath. Returning to the head of the stairs he entered a room on the second floor of the Clay-street side, and while opening the swinging window-sash was fired upon by Officer Hopkins from a window opposite, and instantly killed, the ball passing through his brain.

Andrew J. Taylor, popularly known as Natchez, the proprietor of a pistol gallery on Clay street, opposite the plaza, San Francisco, was a noted man in his day, the stormy time of the gold-harvest, from the fact that his services were often required by the fiery population of the city, whose voices, like that of Moloch, were always for war whenever the shadow of a pretext for resort to arms arose. He loaded the pistol with which Cora killed General Richardson, the pistol with which Casey killed James King of William, the pistols used by George Penn Johnson and W. I. Ferguson in the duel which proved fatal to the latter, and, in fact, was the general armorer of belligerent San Franciscans. He kept a fine stock of pistols, guns, and knives, and was looked upon as an expert and sage in all matters pertaining to the use of those implements of death. He was a Mississippian by birth, and though his business brought him in contact with many reckless characters, was not a quarrelsome man, and had many friends. Alas for Natchez! he had been innocently connected with many scenes of blood, and at last fell a victim to one of the fierce little dragons among which he passed his life. A drayman named Travus, accompanied by a friend,

went into his gallery one day, September the 24th, 1858, to look at a pair of derringers he thought of purchasing. While his friend was examining the derringers, Travus picked up a revolver from the showcase and snapped it, having the muzzle carelessly pointed in the direction of Natchez, who stood behind the counter. The revolver, unfortunately, was loaded, and was discharged, the ball striking Natchez in the face and penetrating upwards into his brain. He never spoke after the shot, and died within two minutes.

The career of Bully Boutwell, as the commander of the *Adams* was called after his little bluster at the foot of Sacramento street, was watched with some interest by Californians, who with deep disgust remembered him. The people of San Francisco were not so different in their nature from others as not to feel gratified to know that he was a bad man, that their estimate of him, though made in a heated moment, was not far from correct. I am sorry to say there were some in vigilant ranks glad to hear that B. B. had trouble in Washington, that he played a somewhat disgraceful part in an affair with Lieutenant Rhind, that he was tried by court-martial and dismissed the service, the sentence being afterward mitigated by the president to suspension for five years. I forgot to mention that prior to his departure from this port, the ladies of San Francisco were preparing to present him with a red flannel petticoat and a nightcap in testimony of their estimate of his distinguished services to his country while here, and that they were prevented from doing so only by his hasty departure.

CHAPTER XXXVI.

SUITS AND ANNOYANCES.

Ich bin Satan, antwortet ein zorniges, tiefes
Gebrüll, bin
König der Welt, die oberste Gottheit unsklavischer
Geister,
Die mein Ansehn etwas Erhab'nerem, als den
Geschäften
Himmlischer Sänger bestimmt.

Klopstock.

LITTLE more remains to be said concerning the issues arising from the Grand Tribunal.

Members of the vigilance committees did not always escape the wrath of those they hunted to the death. If we except the harassing prosecutions of the sufferers at the hands of the San Francisco Committee of 1856, there were remarkably few important or successful retaliations. Quite a number, however, more particularly in the regions of Nevada, Idaho, and Montana, sacrificed their lives to their zeal in exterminating crime.

Several attempts were made to prosecute certain members of the Vigilance Committee subsequent to its disbanding; but such attempts were ineffectual, for it soon became evident that serious bloodshed would follow prosecution by the United States of any of those who had risked their lives for the general good. The executive committee met frequently during the year following the great purgation, and gave those who were arrested every protection, and eight thousand citizens whose sense of justice, whose lives, and the welfare of their families were dearer to them than even obedience to law, stood ready to answer

the summons of the vigilance bell at a moment's warning.

By the steamer of the 20th of August 1856, Mr William T. Coleman sailed for the east, laden with the heart-felt gratitude of all good citizens. After the steamer had sailed it was reported that two assassins sworn to kill him had come down from Mokelumne Hill, and had taken passage by the same vessel. The second day of the sailing of the steamer, a man supposed to be one of the conspirators, was arrested by the vigilant guards and placed in confinement.

Under the caption *Damnum absque injuria*, one writes the 19th of November 1856:

"The annoyance to which members of the late Vigilance Committee are subjected by the murderers, thieves, and ballot-box stuffing individuals whom they were so lenient as to banish from our midst, is at this time exciting no little feeling of indignation among our citizens. A great many were at first disposed to make light of the matter, and to think that nothing would result from such flimsy suits as have been brought by those disgraceful characters. But now, when they are informed that some of the shrewdest lawyers in New York have so far prostituted their talents, reputation, and profession, as to undertake the cause of these villains, some of whom must be known to their counsel to be pardoned state-prison convicts, not for the justice of their cause, but for the black-mail they may be able to levy on parties visiting New York, who would rather pay a few hundred dollars than be subjected to legal delays, annoyances, and uncertainties, our citizens are beginning to feel justly indignant, and to believe that a vigilance committee is as essential for the purification of New York as it was for this city. The parties engaged in thus hampering our merchants and black-mailing our citizens visiting the east, have not the pecuniary interest of their villainous clients in view at all. They use them only as the instruments to fill their own coffers, to enable them to live luxuriously and fare sumptuously at the expense of our citizens. In all probability these very parties at this time are advancing a monthly stipend to the hardened scoundrels, their clients, sufficient to gratify their licentious appetites, so as to keep them on hand to be used for their vile purposes."

During the winter of 1856–7 Mr Truett visited the east. While there he made no effort at concealment, but transacted his business in New York and elsewhere openly, and as usual. Nor was he molested in any way until on the 6th of February, when, after having boarded the steamer *Illinois* for the purpose of

returning to California, he was arrested at the instance of Maloney and Mulligan, and required to give bail in the sum of forty-five thousand dollars. The New York *Herald* gave a garbled statement of the affair, affirming that Truett went on board disguised in red whiskers, slouched hat, and coarse dress, that he huddled himself under a berth in great fear, and that he appealed to the crowd for protection; all of which was false.

At one time there were in New York three suits pending against Mr Truett, who was then under bail for about two hundred and eighty thousand dollars. His bondsmen were C. K. Garrison, William Turnbull, and others; and for counsel there were Charles O'Conor, Mr Girard, John Hackett, Barlow, and Laroch, for the defence, and James Brady and others for the prosecution. The cases did not come up for trial immediately after the first arrest; but Mr Truett was allowed eight months in California during the interval. He then returned to New York to defend his own suits and to assist Mr Coleman, who was well nigh overwhelmed by similar charges and claims.

O'Conor's argument was that when a people were dissatisfied with their government they possessed the right to rebel and reorganize, which was very like the line of reasoning advanced by Balie Peyton and Foot in California, and by this same O'Conor subsequently in his defence of Jefferson Davis at Washington. It was the line of argument of the whole southern confederacy, of these very law and order men who as a class were southern and secession; only when it affected them unfavorably they were against it. This, then, makes the Vigilance Committee in principle secessionists, one might say. By no means. First, the Committee were not rebels, were not dissatisfied with the government, and made no attempt to overthrow it; and, secondly, had they done so it would have been because the government was impotent and inadequate, and not because they coveted power. But

not to put too fine a point on it, I hold that the southern states, that the Pacific states, that the Committee of Vigilance, or any portion of any state, confederation, or colony, has the right, if it has the strength, to rebel, to overturn their government and establish a new one, for in such a case might makes right; that is to say, the will of the majority, or the preponderating element of society, rules in all free governments, and the strongest side is supposed to be the will of the majority. But whether it be right or wrong it is true and palpable. It is thus the universe and all things in it are made. Might will prevail. The strongest will rule. And if it be not right, the fault must be charged to the creator, for so he has made everything that is made.

While these exasperating and expensive suits were in progress Maloney died, and with him the suits. There were few the world could better spare. He had brought much trouble upon many good men. Society was the better for his departure. He was a bad man of not the lowest order; for Irish so recently arrived, his father's family was doing pretty well in American politics, better somewhat than at rum-selling or railway-grading. He had two brothers in congress, one from Maine, and one from Illinois, and these were determined to send him back to California as United States store-keeper. That would indeed be a triumph; to appear in San Francisco under the patronage of government while the vigilant death penalty was hanging over him. But it would likewise have involved the Committee in difficulty with the government to have hanged him, which they assuredly would have done; so it was thought best for Mr Truett to go to Washington and defeat him, which he did, and which, as everybody knows, required money.

One hundred thousand dollars was what Mr Maloney wanted from Mr Dows, whom he caught in New York, and not a cent less. It was worth that,

counting feelings, and loss of political and other thieving opportunities. This little bill, presented by the court of common pleas the 21st of March 1859, included assaulting and battering of which there was none, and suffering of which there was some, for in reality Reuben did not know but that he would be hanged in company with Terry, Brace, and Hetherington. The trial came up, Mr Billy Mulligan being conspicuously and obnoxiously present as lobby, court, and counsel. Mr Maloney deserves the thanks of a grateful posterity for dying so soon. Courts are more uncertain than death.

The expenses of these suits were very great; and coming as they did somewhat unexpectedly, and after the heat and burden of the three months' labors, at a time when the reformers had hoped to unharness finally, made them all the harder to bear. But the Committee and the people responded promptly to these demands. There was no hesitancy, no wavering, but as the money was required it was raised, and all obligations met. Let one, the humblest member of the Committee, be touched, and all felt it; to institute court proceedings against one member of the Committee as such was the same as bringing suit against the whole eight thousand.

Mr Coleman was arrested in New York the 18th of September 1856, on complaint of James R. Maloney, who stated in his affidavit that while performing his duty in guarding certain arms, the property of the state of California, he was seized, handcuffed, and finally expelled from the state by an unlawful organization known as the San Francisco Committee of Vigilance, of which William T. Coleman was leader; and this to his great personal and pecuniary damage. As Coleman was reputed rich, the plaintiff begged that he might be held in the sum of one hundred thousand dollars. He was released, however, by the court on giving ten thousand dollars bail. Mr Coleman was subjected to the greatest annoyances while

at the east. Besides orders of arrest and expensive suits, his steps were dogged, and his life repeatedly threatened.

Herewith I give a letter from Mr Coleman in relation to affairs in New York:

"NEW YORK, April 5, 1857.

"*Jas. Dows, T. J. L. Smiley, C. J. Dempster, Hy. M. Hale, Esqs., San Francisco:—*

"DEAR SIRS: The case of J. R. Maloney vs. Jas. Dows was brought on in the court of common pleas in this city on Monday the 21st of March. Notwithstanding all our efforts to stave off that suit, and bring on the case of Mulligan vs. Coleman (as being a better one for us to try first), they succeeded to their satisfaction in getting the case in court, and we succeeded after a hard fight in getting them out of court completely—nonsuited them on the ground of want of jurisdiction in the courts of New York.

"When we entered on the suit, this was one of the grounds we designed taking, but not knowing how it would be entertained or decided by the court, we determined to defend ourselves on every other point, and from the opening to the close we had one of the handsomest hard-fought battles ever occurring in a New York court; our counsel fighting every inch of the way, and every moment securing advantages. They proved Mr Dows a member of the Committee from his own statements, etc., and there was their only glory. But they proved also that the Vigilance Committee was a revolution—an insurrection, and all that, which we wanted. Mr Maloney then got on the stand. We made him prove a great deal that was desirable, including the fact that he was an active member of the Committee of '51, etc. Oh, how he sweated for about two days! He was a lovely customer.

"The testimony for the prosecution through, we began the defence by a motion for nonsuit, relying on two points (as you will see more fully by the printed reports we send you): first, want of jurisdiction in New York; and second, that the Vigilance Committee was a rebellion, an insurrection, a revolution, and therefore no action against its members would hold in a mere civil suit here.

"Between two and three days were spent in arguing these points. One of Mr O'Conor's arguments being over six hours long, and finally the judge ruled in our favor, much to the mortification and rage of the opposite party. They immediately moved for a new trial—refused; then they gave notice for an appeal, and will carry it to the court of appeals. Meantime Mr Maloney says he will push his other suits without delay, and we are ready to meet him.

"Lawyers disagree about the judges' decision, but we think it good law, and that it will hold the world over.. We are willing to stand by it and test it further anyway. It is our desire to have it wide-spread and discussed fully before any other cases come up.

"I dropped all other business and attended exclusively to this case for eight days—and nights too. Friend Truett was on hand, and with the many friends that rallied around, we had a pretty strong force, and actually outnumbered the 'roughs' in court, and carried the day by numbers as well as

every other way. We had witnesses from the west, from Philadelphia, Boston, and all over the country, when we could get a valuable one; and were well fortified in that particular as in every other. The expense was large necessarily, but it wouldn't do to be at all parsimonious in a case like this; and as the opposition were moving heaven and earth as far as they could, it became us to be moving also—and we did.

"Our expenses have been heavy. We paid $2,500 additional counsel fees, and a great many smaller sums, which will all appear in due course. Being about out of money, and having little or no chance of raising much here, Truett and myself deemed it best to draw on you at 30 days' sight for $5,000, which we did, and trust you will duly honor. This leaves us a little balance on hand, which will all be wanted, and perhaps soon, as we are by no means out of the fight yet, although we have so much the advantage of them now. Our position is now good here, better than we had reason to expect, and by being on hand with a fair amount of means, and plenty of pluck, we can drive the scoundrels out of New York, and away from any position in which they will be seriously annoying, but it will require considerable work and attention yet, and a judiciously liberal outlay of money; I think $15,000 here, and $10,000 in California, will beat them all to death, as far as suits are concerned, and although that appears like a large sum, yet out of 6,000 people at least 1,000 will contribute, and $25 average each of these will make the sum. If that much can be raised now I'll go $1000 of it individually, if necessary, though I assure you I have spent a great deal for the good of the cause and in defence of these suits and of our friends that will never appear except in its benefits.

"Let me ask of you to meet this draft promptly, to raise all the money you can, and not ask for small amounts. Keep all cases in California from judges, but have juries in all cases. Be of good cheer and it will all come out right and bright.

"With best compliments to all, I remain as ever,

"Truly yours,

"WILLIAM T. COLEMAN."

Before an Executive meeting held Saturday afternoon the 15th of November 1856, New York letters as follows were read: one from James Dows, one from Truett and Rogers jointly, and one from William T. Coleman. The communications were addressed to the Executive Committee of Vigilance, and contained particulars of suits begun. Accompanying Mr Coleman's letter was the draft of a bond intended for execution by members of the Committee in San Francisco. The question of signing the bond was discussed, but it was not approved. Each member of the general committee was then assessed five dollars towards a fund

for meeting the expenses incurred by members of the Committee defending suits in New York and elsewhere. Each member of the Executive was then requested to consult his attorney individually regarding these suits.

But while the Committee responded thus promptly to the call of its members attacked by the expatriated in New York, it did not hesitate to enter its protest against unnecessary exposure. "Whereas the obligations of each and every member of the Committee," says a resolution of the Executive passed the 21st of November 1856, "is such as to make it obligatory upon them to protect and indemnify one another from all annoyances arising from being members of the Committee of Vigilance to every reasonable extent; therefore, resolved, that we deem it inexpedient and unjust in any member or members of the executive or general committees to visit the eastern cities while such a state of things exists, relying upon the Committee here to sustain and indemnify them; that no member of the Committee has a right by his voluntary acts to involve the whole Committee in pecuniary loss, and when such is the case all honorary obligation ceases; that the foregoing resolutions are not intended to apply to such parties as left here previous to the news of arrests in the city of New York."

By the steamer of the 20th of December the Committee sent Mr Coleman one thousand dollars to serve to defray in part the expenses incurred by the suits then pending. A month later the Committee wrote Mr Coleman requesting him to hasten the suits against him to an immediate issue. Five hundred dollars was applied to Mr Dows' New York account the 22d of May 1857. The next steamer one thousand dollars was sent to Mr Coleman. The 2d of May 1857 letters were received from Truett and Coleman, stating that the New York suits had been decided in favor of the Committee. These advices were accompanied by a draft of five thousand dollars on H. M. Whitmore, treasurer, negotiated through

Duncan, Sherman, and Company, New York. The draft was promptly accepted; the members marking on paper the amount for which each would become responsible in payment of the draft. At the meeting of May 1, 1857, Mr David announced the necessity of again raising funds for the defence of members of the Committee against whom actions were brought in New York and elsewhere. Accordingly a committee was appointed to devise ways and means.

The San Francisco *Herald* having attained an inglorious end, its editor still keeps biting the file in becoming the champion of the now returning rascals. We have seen him in the Green suit. Subsequently he appears for Duane and others. The *Bulletin* says of him the 13th of August 1860:

"The ex-editor of the *Herald*, John Nugent, is not yet satisfied; he wasted four years of his newspaper life in making war against the great reform government in this city, and had the satisfaction merely of demolishing himself in the contest; the reform went up, and his journal went down. His former political friends and partners having at last found it expedient to pay him to quit the paper, he has carried his energies into another profession; but there he seems to be pursued by his old monomania, hatred of the good citizens of San Francisco; and he spends his time in fanning the flames of discord, and in keeping alive the expiring embers of hatred and malice that unfortunately still, more or less, divide our community. The Green case is familiar to our readers; it terminated a few days ago to the utter discomfiture of Nugent and his virtuous clients, who instead of enjoying a large fortune in the shape of damages for their hard treatment by the Vigilance Committee, have the satisfaction of paying a portion of the heavy costs of their suit. Foiled in that attempt, Mr Nugent has found another client. Charley Duane, the redoubtable Dutch Charley himself, is now the injured individual who puts in a claim for a salve of damages to heal his wounded fortunes. This time, however, the suit is not against our citizens. In order to get the case into the maritime court, where a single judge will be arbiter, and a jury not have the privilege of trying the issue, Duane sues Captain Watkins and Watson his first officer and Captain Pearson, who commanded the steamers that took him off when he was banished by the Vigilance Committee; or who refused to bring him back, against the sentence of the Vigilance Committee, when he desired to come back. Each of these gentlemen is asked to pay the nice little sum of fifty thousand dollars; and Charles Goodall, master of the steam-tug, is sued also for an additional trifle of twenty-five thousand dollars for his share in conveying the departing patriot from the wharf to the steamer, when he was outward bound. Should Charley succeed in getting all he asks he will have quite a snug little fortune of his

own; one hundred and twenty-five thousand dollars is not to be sneezed at; and being made a martyr of will be the best day's work he ever did in his life, which perhaps is not saying much, as he is not accused of ever having been partial to work of any kind.

"But, pleasantry aside, we do think that Nugent might, if he tried hard, find a more reputable and profitable way of employing his professional talents than in bringing vexatious suits, at the instance of notorious vagabonds, to worry decent people. There is no money to be made by keeping up this annoyance, and we cannot understand the manliness of such petty exhibitions of spite. Four or five years should be enough to cool the most obdurate liver. Time, the great comforter, has almost obliterated the wounds that rankled in days past. Why adopt, then, the diabolical calling of thrusting meddlesome fingers into the healing flesh, and tearing apart the old gashes!"

J. P. Manrow was sued by Hennessey at Downieville in September 1858. The case came up for trial in the district court at Sacramento the 9th of June 1859, upon a change of venue, no jury satisfactory to the plaintiff being obtainable at the former place. When called for trial, the plaintiff failing to put in an appearance, the case was dismissed.

From Sacramento one writes the 15th of February 1858:

"Ned McGowan and his gang committed an assault on Mr John Center of San Francisco, last evening at the Forest theatre. It seems a poor fool of an old man, who is called Judge Garland, took a benefit. A number of rowdies bought tickets, and as soon as the judge opened his mouth on the stage, commenced pelting him with rotten eggs, potatoes, cabbages, and other vegetables. They would run him off the stage, then bring him back to again repeat the sport. This fun was kept up till it lost its novelty, when Ned McGowan rose in his seat, and declared that he saw among the audience one of the damned stranglers, a man who had carried a musket for the Vigilance. With this the lights were put out, a rush made for Center, who was knocked down and terribly beaten before he could make his escape. It is well to say here, that before this happened, the more respectable portion of the audience, becoming disgusted at the treatment of Garland, had left the house. So far as I know, no arrests have been made. How long will Ned McGowan and his crowd be allowed to abuse peaceable citizens? Where are the advocates of law and order now? Is a sound heard from them in condemnation of these outrages? In truth, do they not sympathize, aid, and abet in their commission? Is it not the boast of McGowan that he has made money by assaulting the 'damned stranglers,' that his fines are always paid by his friends, and something handsome besides? I am no prophet, but I predict that there will be a rising of the people in the capital of the state, a vigilance committee if you will, that will sweep these scoundrels from the face of the earth, in less than a twelvemonth."

The Sacramento *Bee* of the 1st of February 1858 gives the following:

"We have been told that there is now in Sacramento a young man, who acted as scribe or deputy-secretary, for a time at least, for the San Francisco vigilants. He came up on Saturday morning, and when going to his hotel last evening he was dogged by two men. He went to his room, and soon returned to the street door, and saw the same parties on the sidewalk, one on each side of the doorway. One said, on his approach, 'Here is the damned strangler,' whereupon some four or five others approached, and to save himself the young man retired to his room. The parties remained near the hotel some time, swearing, and threatening vengeance. We have heard of residents of San Francisco, merchants and others, who came here on business, being dogged about the streets after night, and their persons endangered."

At the instigation of Adjutant-general W. C. Kibbe, piqued, it was said, by some vigilant occurrence, a court-martial was convened for the trial of Captain T. D. Johns, of the California Guard. The charge was nominally for disobeying the orders of the governor when called upon to take action against the citizens of San Francisco. Johns commanded one of the volunteer companies, it will be remembered, which did not come out at the governor's call. Like verdigris upon a brass breastplate the stain had rested on California's escutcheons, and Kibbe determined now, after the lapse of two years, to rub it off. After certain necessary military fuss and feathers Johns was honorably discharged. This was in June 1858.

At an Executive meeting composed of twenty members, held the 21st of August 1857, the following resolution was offered and discussed but not passed:

"*Resolved*, by and with the concurrence of the board of delegates, That all existing resolutions of expatriation and penalties are hereby rescinded, to take effect on and after the 3d of September, and that the same be made public by publication."

The matter was laid over for final action to the 5th of September, at which time it was agreed that eighteen votes should be required to carry the resolution; and the question was again postponed. At the meeting of the 13th of September, a petition signed by several

citizens was handed the Executive, recommending that the decree of banishment be rescinded. Finally, after much discussion, the resolution to rescind passed the Executive, twenty ayes to six noes, and the delegates, thirty-three ayes to twenty-two noes.

The *Bulletin*, whose disease, where vigilance matters were concerned, was now chronic, before the publication of the Executive address, namely, in its issue of the 14th of October, deprecated the action of the Executive as usual. In the view it took of the question it stood almost alone, and seemed actuated by petulant opposition rather than by sound common sense. Its arguments are puerile, illogical, and not worth quoting. After the publication of the address, three days later, which I give herewith, it forever held its peace upon the subject.

"*To the Members of the Committee of Vigilance:*—

"GENTLEMEN: Your executive committee deem it proper officially to announce the passage of the following resolution, which has received the sanction of the board of delegates, and is now an act of the Committee of Vigilance: 'Resolved, That by and with the concurrence of the board of delegates, all existing penalties attached to sentences of expatriation are hereby rescinded.'

"However much honest men and patriotic citizens may have differed as to the right and justice of the organization and acts of the Committee of Vigilance, no candid man can deny that a great reform in public morals and political estate has been achieved as a result. Our elections on three occasions have been peaceable, and untainted by fraud; quiet and order reign in our streets; virtue is not openly outraged on the highways; deadly weapons are no longer publicly displayed and defiantly used; liberty of speech and of the press is no longer a misnomer, or the cause of bloodshed; public plunder is now neither practicable, nor the object for which office is sought; a rigid scrutiny into public affairs has been inaugurated, and is consistently maintained by citizens, without let or hindrance; the offices of the city and county have been filled by men of probity, who are the undoubted choice of the electoral majority; ballot-box stuffing and fraudulent election returns are at an end; the people now have confidence that political favoritism will not in future rescue the convicted guilty from the punishment decreed by the laws; the community enjoys a tranquil repose and hopeful prosperity. This state of affairs, contrasted with that which existed when your labors commenced, proclaims the magnitude of the triumphs that have been achieved. We believe that the people, happy and contented under the change, desire that every cause of future excitement and possible anarchy should be removed.

The highest duty and aim of the Committee of Vigilance is to establish the rights and promote the welfare and tranquillity of the community which confided its interests to the charge of that body. To execute any one of the expatriated who might have the temerity to return would, under the changed and existing state of affairs, interrupt the present peace and quiet of our city, without bringing adequate advantage. The necessity for such a course of public excitement no longer exists. The return of a worthless individual, and the execution of the death penalty upon him, should not weigh in the scale with the peace and happiness of our citizens. On the other hand, not to carry out the extreme penalty on a returned criminal, during its existence as a sentence, would stultify the Committee, and is a remedy at which the stern and resolute character of its members would revolt. Either contingency is too serious to hazard, on the chance of the non-return of one of the exiled. Banished for the public good, their presence in times past having been the signal for disorder or the cause of frauds upon the rights of the people—rendered powerless as they now are, we but reassert our strength and confidence in the support of public opinion, by the present act. Determined as the people are to protect their rights, no fear need be entertained that the former scenes of iniquity, violence, and official corruption will ever be reënacted in San Francisco.

"The resolution now adopted is not so much an act of clemency to the guilty as of regard to the interests of the public. Yet the annals of history furnish abundant precedent for the removal of the penalty of banishment upon turbulent and offensive characters, where governments have attained to a position of strength and repose which did not exist at the period of the expatriation. Why, then, should we, who do not claim the dignity or authority of a government, be reluctant to follow the well established precedent of stronger and more exalted powers, when the necessity for maintaining the penalty no longer exists? It will be seen by the tenor of the resolution that the sentence of banishment is not revoked; the Committee have no error to retract in their decrees of expatriation; they are simply relieved by their present act from the obligation to inflict the death penalty on returned exiles; the disgrace of banishment still remains upon them. If they return, it will be upon sufferance; they will be subject to the just opprobrium and watchful eye of the public, which will hold them to a strict accountability for their good behavior. It is, however, quite unlikely that they will return; with the removal of the prohibition the desire to be in our midst, particularly under humiliating circumstances, will be dissipated. Other cogent reasons might be adduced for the step that has been taken. The Committee revere the constitution and laws, and would not see them violated when a stern and absolute necessity for justifying an exception to a great principle no longer exists. The present incumbents of office in the city and county have the confidence of the people, as they have had their votes, and it is right and proper that to them alone should be confided the present and future administration of justice. To execute the sentences of the Committee under circumstances so completely the reverse of those which existed at the time when they were imposed, would at once arraign the body against the very government which has its confidence and support, and which is the result of the reform move-

ment. No parallel exists between the present condition of affairs and that which the Committee was organized to overthrow and reform. Then the government in some of its parts was an usurpation. The people, the source of government and law, were conscious that their liberties had been outraged, and that officials who were not elected had been foisted into office by ballot-box stuffing and fraud; the evil was a great and growing one, self-perpetuating, it was unpunished by law and sustained by organized ruffianism, and the emergency admitted of no relief short of a limited exercise of the sacred right of revolution. The contrary to all this now exists. Acts which then were defensible and right because the only remedy, would now be reprehensible in the eyes of all conscientious and reflecting men, and at variance with the principles of the Committee of Vigilance.

"It is a subject for mutual congratulation that the reign of peace and justice has been thus early and firmly established, and that while your ranks are unbroken, and your power to enforce any decree undoubted, you can prove the sincerity of the love you have always professed for the principle and spirit of law by retiring from apparent antagonism thereto on the first opportunity consistent with the general welfare and the preservation of the public peace. The harmony and unity of the Committee is a sufficient guarantee that on any emergency, improbable as it is of occurrence, the members will rally for mutual support and to protect the public welfare. Malicious suits brought against members of your body for acts performed in the direct execution of its decrees, still remain before the courts, and demand your attention. These and other matters of importance properly requiring your coöperation will continue to receive the careful consideration of your executive committee, whose zeal for the protection of the property, reputation, and persons of your members will remain undiminished. On this occasion the executive committee desire to renew to the members of the organization their assurances of gratitude for the faithful and disinterested devotion to the public weal manifested regardless of fatigue and peril. These feelings, we are confident, are shared by those good citizens who did not deem it necessary to become active members of the Committee of Vigilance. Your reward will be found in the proud consciousness of duty well performed, and in the continued happiness, peace, and prosperity of the community who intrusted their dearest interests to your charge.

"*Executive Committee Rooms, San Francisco, October 16, 1857.*

"Published by order of the Executive Committee,

[SEAL] "33, *Secretary.*"

CHAPTER XXXVII.

POLITICS AND VIGILANCE.

L'hypocrisie est un hommage que le vice rend à la vertu.
Rochefoucauld.

If vigilance would have none of politics, so would not politics of vigilance. Every issue possible throughout the state was forced on this local reform. There were many ways in which this could be done, and vigilance be obliged, contrary to its inclinations and avowed purpose, to arise and defend itself. The very stand it took against politics, the very declaration that vigilance was not politics, and that its members, as such, were of no party, arrayed parties against it.

A case in point was the advertising of the governor's proclamation, in itself a wholly unnecessary measure, in its general and wide-spread advertisement an absurdity. The document was taken up by journals opposed to vigilance as their reward of merit, and kept in their columns during the whole time of its continuance in force. These bills in the aggregate, at the high rate charged, and the then impoverished condition of the public treasury, amounted to a considerable sum. The payment of these bills was one issue:

"If elected to the senate," declared Mr Sargent, the 17th of September 1856, then before the voters of Nevada as a candidate for the legislature, "I will oppose the payment of all printing referring to the Vigilance Committee, except as provided for by the following provisions of law, even though the effect is to injure certain democratic innocents, the Nevada *Democrat* among the number, who have been running up a bill of thousands of dollars against the state, in hopes an anti-vigilance legislature will pay the bills. Section first of an act concerning official advertisements, and to provide for their payment, page 84 of the statutes of 1856, reads as follows: 'All advertisements, notices, and proclamations, by the governor and other officers, on behalf of

the state, shall be ordered published by the governor in one newspaper only, and the state shall not be liable to pay for any other publication, and every officer is prohibited paying for such other publication out of any moneys belonging to the state, provided that the governor's proclamation of a reward may by him be ordered published in not to exceed four newspapers, and notices by the treasurer, for the redemption of state warrants or bonds, may be published as now required by law.' In defiance of this law, all the anti-vigilance papers of the state, and some others, have been publishing for months a document purporting to be a proclamation, also orders of generals of militia, and some of them a speech of General V. E. Howard, called a report, making a bill to be paid of forty or fifty thousand dollars, when the legal charge should not be more than three thousand dollars. I shall oppose with all the energies and abilities I may possess, if elected, the drawing of money from the state treasury for this illegal purpose, and defeat the cormorants who are so greedily hovering over the treasury, under the name of innocent third parties.

"I believe the prevalence of crime in San Francisco, the rule of bullies and ballot-box stuffers, by which the will of the people at the polls was invariably defeated, the prevalence of ruffianism by which forty bodies were picked up in the bay in one month, ostensibly the victims of man-traps, the acquittal of deep-stained murderers in the courts by packed juries, the crowning act of devilism in the assassination of Mr King, called for the intervention of the people in their own defence. That the Vigilance Committee was organized to remedy and did remedy these things, and I approve of their action as wise, politic, and humane, and eminently justifiable by the first law of nature, and of common, civil, and statute law, the law of self-defence. That the history of their course shows that in all cases they awarded a fair trial and full privilege of a hearing to the accused, and made an example of no man not notorious for his criminality, and that the action of the Committee, in its direct results, conduced to the safety and happiness of the city of San Francisco. Believing that the spirit of justice is of more importance to the community than the forms of law, that it is right to oppose tyrants and murderers even to revolution, that when the judicial station is used not to punish but to protect crime, it is the right of the people to protect themselves, I have been found the friend of the Vigilance Committee, and desire no one to misunderstand me in this fact. If elected senator, I shall oppose with whatever power God has given me, the efforts I believe will be made to harass and outlaw the Vigilance Committee, and I will favor an act of oblivion for their benefit, to give complete rest to the people of San Francisco upon the matter."

"Every man nominated for the legislature," says a democratic journal, just before election, "should be pledged formally and unequivocally against the Vigilance Committee. The organization has declared war upon the democratic party, and it is our duty to see that no traitors to the constitution be permitted to be

invested with the sacred character of democratic standard-bearers in the coming fight. Let the convention look to it, both retrospectively and prospectively."

Another issue was the passage of a general amnesty act, that the law might not forever hold its uplifted hand over the heads of the reformers. Says the Nevada *Journal* of the 17th of October: "The people have it in their power at the ballot-box to give peace to the country, and save excitement and expense. They ought not to neglect the golden opportunity. Let the question be propounded to every candidate for a legislative office, Are you or are you not in favor of the passage by the next legislature of an amnesty act for the benefit of the Vigilance Committee? and if his answer is not satisfactory strike his name from the ballot, let him belong to whatever party he may."

At the democratic state convention held at Sacramento about midsummer of 1857, anti-vigilance resolutions were passed, to the great satisfaction of McGowan, Terry, and Herbert, but to the infinite disgust of good democrats throughout the state. The relation of vigilance to law and order, or, as it was now called, of the people's party to the democratic party, one year after the disbandment of the Vigilance Committee, is ably set forth by Mr Zabriskie, himself a stanch democrat, in a speech delivered at Musical Hall the 31st of August 1857. Among other things he said: "It is the settled and determined purpose of the democratic party in this state to put down the Vigilance Committee of San Francisco. They have not the manliness and honesty to announce and meet the issue fairly before the people, but seek to secure, by insidious means and political finesse, all the advantages of the issue without the responsibility. It is known to every citizen of California that during the last canvass no reference whatever was made to the Vigilance Committee. On the contrary the prudent leaders of the party and the masses sought to avoid it

and keep it out of the canvass. No sooner, however, had the members elect assembled at the capital and organized for the discharge of their duties than the vigilance question was presented and discussed, and a resolution passed substantially declaring that the vigilance issue was presented during the canvass just past, and decided against that organization. Thus did grave representatives, after full and free discussion, solemnly declare and record in the legislative archives of the state, a known, positive, and palpable falsehood. No more conclusive and emphatic evidence could be furnished of the determination of the democratic party to avail themselves, individually, of that issue to secure political advantages than the fact presented. Again, during the session of the last democratic state convention, the notorious Herbert offered a resolution the design of which was to denounce the Vigilance Committee and present the issue before the people during the ensuing canvass. That resolution was debated at length and with vehemence. Prominent among those advocating its passage were Mr Hawks and Mr Hoge of your city." During their remarks, particularly those most denunciatory and slanderous, they were loudly and vociferously cheered. Mr Hawks said: "We are called upon as a political party to put down a body of men who have banded themselves together not only as the destroyers of the rights and liberties of a portion of our citizens, but who have banded themselves together in political organizations for the purpose of crushing out the life-blood of the democracy in San Francisco."

After Mr Hawks had concluded his remarks, Mr Hoge delivered himself of the following sentiments; the first portion of his remarks had reference to the action of the gang of rowdies who assailed the ballot-boxes at Washington City: "A blackguard party, rejoicing in the euphonious name of Plug Uglies, within the very portals of government, beneath the very eye of the democratic federal administration, with arms in

their hands, seize upon the polls, where freemen are in the exercise of the dearest privileges of freemen, and the troops of the republic are called out, and at the point of the bayonet the law is enforced and the constitution is maintained." Mr Hoge refers to the incident which occurred at Washington City to prove that the action of the president of the United States is a practical condemnation of the proceedings of the Vigilance Committee. How unfortunate is the reference! The Plug Uglies, a gang of ruffians, seize upon the polls, where freemen are in the exercise of the dearest privileges of freemen; the troops are called out, the law is enforced, the constitution is maintained. A gang of similar scoundrels at San Francisco seize upon the polls, where the freemen are in the exercise of the dearest privileges of freemen. A government exists with abundant authority to enforce the law and maintain the constitution; but unlike the patriotic action of the president of the United States, that authority is not invoked because it is controlled by these very scoundrels and is designed to secure and promote their interests.

Bills were introduced into the legislature having in view both the extermination of vigilance and the reward of those who had attempted its extermination. There was a man envious of distinction, named Harvey Lee, sent to the legislature from El Dorado, who, the 13th of January 1858, introduced an anti-vigilance bill which created some discussion, although there were others of minor importance brought forward both before and afterward. This bill made it a criminal offence to "conceal any person or persons to prevent the due service of habeas corpus, or any writ or order of any court of this state, or of the United States." The bill was full of absurd and unconstitutional provisions not worth naming; in fact, nothing about the man or his attempts are worthy our consideration except as showing the tendency of the times. The legislature was anti-vigilance, and Mr McGowan

and that class were great men there, and could get almost anything they asked for.

Lee spoke for his bill as loudly and as strongly as he could. Caleb Burbank replied crushingly. By it Lee was greatly compressed in his moral presence, and his bill was *in forma pauperis*. Burbank was a man of large physique, as well as breadth of intellect. He was afraid of nothing. Lee was a law and order man, and as usual resorted to the chivalrous method in settling a difficulty. Scarcely had Burbank taken his seat when a page handed him a note which read as follows:

"*Burbank:*—

"SIR: If you ever refer to me in that manner again I shall take occasion to visit your desk with a bowie-knife. H. LEE."

To which the following prompt reply was sent:

"*H. Lee:*—

"SIR: Whenever you find occasion to visit my desk with a bowie-knife, be sure and fetch along a pail to carry home your entrails in.

"C. BURBANK."

This is very good as far as it goes; but the cool irony of it is seen only when we remember that this man was that very moment advocating measures to prevent persons from taking the law into their own hands, while he threatens to murder a man for opposing him. This is one of the strange things about it, that men of ordinary intelligence should not have seen that they broke the law in a tenfold greater degree every time they drew a deadly weapon than ever the Vigilance Committee did in their solemn deliberations.

Lee's bill was called the mob bill, and was aimed directly at San Francisco, though that was the last place on earth where a mob was likely to spring up. That city was now reaping the rewards of the virtuous acts of her citizens who would permit no mob to disgrace her streets, no not for an instant. But call the Vigilance Committee a mob, as that was evidently what Mr Lee intended, and there was still no neces-

sity for such a bill, for San Francisco was the place upon the coast least likely to need a vigilance committee soon again. So well and thoroughly did the committee of 1856 do their work that it was not probable they would have it to do over again soon. They hoped and prayed that the time would never be.

Another bill, called the bummers' bill, was introduced in 1858, and revived in 1859. Indeed, a phase of it appeared both before and after these dates. The bill itself was for the payment of fifty thousand dollars to the men of law for damages inflicted by the vigilance organization. The special phase of it mentioned was the payment of three thousand dollars each to Ferris Forman and R. A. Thompson for their expenses to Washington while seeking aid from the general government for suppressing the Vigilance Committee at San Francisco. This was the third time, that is to say in 1860, that this bill had been urged before the legislature of California.

The following from the *Bulletin* of the 5th of March 1859, signifies the spirit of the radical reform press on the subject:

"Last winter one Mr Groom made himself famous by introducing a bill in the California Assembly to appropriate fifty thousand dollars for the payment of Governor Johnson's law and order bummer army. Two days ago, one Mr Roane, emulous of the notoriety of Groom, took up the same subject, and brought forward a proposition to pay these bummers fifty-two thousand six hundred and thirty-one dollars and seventy-two cents, or nearly three thousand dollars more than was provided in the bill a year ago. Whether this bill will meet with a different fate the present session from what it experienced the last, we do not know, nor do we care much. It is a scheme to rob the treasury; and as long as that institution has money in it, and its keys are intrusted to men who are supposed to be approachable, we cannot expect anything else than to see similar attempts made. The bummer army scrip, as is well known, has been bought up by a few experts in the art of log-rolling and lobbying. Its holders are on the lookout for a legislature weak enough or dishonest enough to recognize it. As often as they think they have these, they will make an attempt to get their bill through. And after some of the recent votes of the present body, we are not surprised that the hopes of the bummer scrip-holders begin to rise.

"It may not be amiss, however, for us to keep the merits of the attempt to filch the people's money for the benefit of half a dozen bad men, fresh in

the minds of the people, in order that those who take part in it may at least receive a fitting share of deserved odium. The facts in the case are as follows: In 1856, on the breaking out of the vigilance excitement in this county, Governor Johnson, after temporizing and arguing with the leaders for some time, at length issued his proclamation, and called out the military power of the state to put it down. Great efforts were made by the leaders of the law and order party to organize a force to oppose the Committee, but further than getting a handful of idlers and bummers to enroll their names, nothing was done.

"The military did not come out; the public service was performed; and nobody was put to any inconvenience or loss by holding himself in readiness to perform service. The only thing really done was to go to the city-hall and enroll their names; and with a very few exceptions, those who did this were men who could have been bought with a half-gallon of whiskey to have done anything that promised excitement or a change. How many names there were enrolled we do not recollect, probably not exceeding two hundred at the outside. We think we risk nothing in saying that not a single day's time was devoted by any one, except the officers who were in the service of the state, to military duty, in consequence of his enrolment. In fact, at the time, there was really very little business going on here. People generally suspended private business to a considerable extent, and everybody's head was full of the ruling excitement of the moment. Therefore, if those who were enrolled in the state's service had devoted two or three weeks steadily to drilling and marching, they would have made no sacrifice of private business, for such was pretty much suspended in the first place; and in the second place, the majority of the law and order army had no business in ordinary times.

"Now to ask the state to pay this handful of men, for doing nothing, fifty-two thousand dollars, we say is an outrage. The very few good citizens who from principle enrolled their names in the law and order army, we are sure do not ask for pay. They had higher aims, or all their professions are unreal. The bummers and lunch-eaters deserve nothing. They made no sacrifice, performed no labor, and rendered no service to the public. To pay them fifty-two thousand dollars for affixing an X mark to the muster-roll, is generous compensation indeed. With even all the resources of this great state, we doubt if such a lavish expenditure is in keeping with a decent regard of the people's interest."

Smarting under the infliction of rascality which San Francisco would not suffer within her borders, the Sacramento *Union* of February 1858 says:

"Since the summer of 1856 there has existed in this state a class of men who have prated long and loud in favor of law and order; who have assumed to be the defenders *par excellence* of the laws and constitution. Those making the most noise in this party have generally been men who live in daily violation of the laws of the land. Moral laws they do not pretend to recognize. If

personally examined, a pistol or bowie-knife, often both, will generally be found upon the persons of these loud-mouthed and peculiar law and order men. This class is made up of gamblers, horse-racers, pimps, rowdies, ruffians, loafers, political mendicants, ballot-box stuffers, lunch-boarders, and men generally who live without honest labor and by plundering the community in some form. During vigilance times they volunteered, nearly to a man, to fight the Vigilance Committee. They entertain a holy horror of all such institutions, but snap their fingers at the courts and the criminal law, as usually administered, for the very good reason that some of the officers of the law are sure to be their friends, elected by their votes, money, and stuffing skill. By these or some other means they manage to be summoned as jurors, or as witnesses, it matters not which, and a mis-trial follows, or a verdict of not guilty. If a citizen has rendered himself obnoxious to any of this gang, he is dogged until found alone and unarmed, and is then assailed by a dozen of them at once, cut and stabbed, or most outrageously beaten by this banded together gang of law and order advocates.

"In Sacramento we have our own full share of the class we have been describing. They are always to be seen around, like gentlemen of leisure, but how they manage to live is a mystery to all honest and industrious citizens. They dress well, and talk very loudly about their devotion to the constitution and the laws; inveigh with great bitterness and many oaths against the very best men in the community, and hiss out the word strangler whenever they meet a man known to have acted with the Vigilance Committee. They would hang, if they had the power, all the members of the Committee; they are particularly in favor of hanging, provided the experiment is not tried upon any of their patriotic and honest persons; stringent laws to punish all those who combine to protect themselves against fraud and violence, they admire hugely, and hence they are generally ardent advocates of such bills as that introduced by Mr Lee to suppress mobs against the government.

"This portion of the law and order forces have recently illustrated in several instances their peculiar ideas of sustaining the constitution and the laws. A few nights since, and after the boat arrived from San Francisco, a man known to have belonged to the Vigilance Committee was insulted, spit upon, and beaten by members of the law and order gang. On Saturday night last, they found a respectable and quiet citizen of San Francisco accidentally in their power in the theatre; the watchword Vigilante was given, the man surrounded, and in a few minutes terribly beaten, because he was suspected of having belonged to the Vigilance Committee.

"What a terrible commentary upon law and order! These men hunt in packs, like wolves, fall upon their unsuspecting victims, wreak their vengeance upon them, and for what? Simply because those victims belonged to the only organization that such men ever dreaded in California. Does any man suppose that such moves are made out of respect for the law, or from a love of order and a devotion to the constitution? Certainly not. Every movement shows that opposition to the vigilance is purely personal and selfish. Personal satisfaction is the end and aim of all their acts.

"The singling out men from San Francisco, for the purpose of insulting and assaulting them, indicates the source and object of that provision in the

mob bill to give any court in the state jurisdiction over cases arising under any vigilance organization in San Francisco or elsewhere. This class of patriots desire to take men from home singly, so as to enable them to take vengeance upon them under the forms of law. But there is a point beyond which such violators of law, human and divine, will not be permitted to go, mob bill or no mob bill."

Finally reform became the watchword of the opposition, and along the line the word was given to suffer none guilty to escape, unless it were a good law and order man. But this was an ancient and oft-repeated subterfuge, and carried with it no great weight.

It was at a time when the slavery feud ran high, and the office-holders being mostly southerners, all sound slavery men must stand by them regardless of ability or morals. But the antagonism excited by vigilance swallowed up the passion roused by the promulgation of anti-slavery tenets. As in the war for the union, "give us revenge to-day," they cried, "and we will take state's rights to-morrow."

In politics as in social life these men of law were exceedingly clannish, their affection for each other bordering on the savage in its nature. Their friendships were of a nobler, more chivalrous, and unselfish character than those which commerce called forth from the colder northerners. The trafficking New Englander could scarcely understand them.

It was of no consequence with them whether the opinions entertained by the vigilants were right or conscientiously held; if conflicting with preconceived notions they must be put down. This was the theory of the judges and officials. If there was no other crime in vigilance there was at least stubbornness. As the gentle Pliny said of the Christians whom he was called upon to judge, "I could not doubt that whatever might be the nature of their opinions, such inflexible obstinacy deserved punishment."

Socrates after his trial was offered the opportunity of escape. Escape was easy and certain. Yet he preferred death to breaking the law, and thereby sinning

against his own conscience, and this notwithstanding the law brought an innocent man to punishment. He had preached obedience to law, and to save his life he would not now stultify the precepts he had taught for fifty years. This was another and a nobler obstinacy than that of the modern law-worshippers, who were willing enough to sacrifice others to their ideas of law, but not themselves. For myself I think Socrates reasoned very foolishly in this matter, though, as he was an old man, and did not care to leave Athens, he may have acted wisely enough. Socrates would have his conscience under law; I would have law under my conscience. He knew the law which condemned him to be unjust, and yet to that unjust law, that gross wickedness, he bowed his head and died. Peradventure for a righteous law I might die. And who is to be the judge? they ask. I, myself. As I for myself, and not for another, am to live or die by the law, I for myself must judge. A false maxim, like a popular vice, is a most powerful engine, and the quicker it be dissipated the better.

Nearly all the trouble of the 1856 crusade may justly be charged upon the governor, assisted by officials. Wisdom and dignity become a ruler. The people often forgive crime sooner than incompetency, effeminacy, or frivolity. The downfall of Nero was hastened more by his singing and playing on the public stage than by his cruelty. And as for Johnson's abetters, unfortunately the official suicides of Japan did not obtain in California, those *hari-kari*, cross-cuts, or the happy despatch by which civil officers of that country relieved the government. The officials of California would neither retire nor kill themselves at the request of those who had elected them.

In settling California, as I have before remarked, southerners naturally dropped upon the offices as theirs by right. They were accustomed to public positions

at home; they were fit for nothing else; they despised work; being chivalrous they were nearer akin to Irish shoulder-strikers, who were a sort of aristocracy in their way, than to the more plodding humdrum Yankee.

Religion as well as politics had its little fling at vigilance. The clergy were as a rule supporters of the Committee; some of them vindictively so. Once arouse the demon of discord in the breast of those whose mission is peace and none can hate so heartily. This we saw in the war for the union where the occupants of northern pulpits were very bitter in their denunciations of their southern brethren. On the question of vigilance some few denominations, though as ever nominally for peace, in reality were with the stuffers and strikers, these being of their fold. In one instance there was a pastor with the law party while his church was against him.

In a former chapter I spoke of a southern divine, alluding to Doctor Scott, who had written articles adverse to the Committee, and had sent them to Philadelphia for publication. For this, as well as for his persistent antagonism to the Committee, the doctor was hanged in effigy in front of his church, on Bush street between Montgomery and Sansome streets, on Sunday morning the 5th of October. About six o'clock, before the figure had attracted much attention, it was cut down by certain lovers of propriety, and the perpetrators of the deed were not discovered.

The affair created much talk, and the doctor did not altogether dislike it. He was being maligned for opinion's sake; he was being martyred for truth and justice. Never to him was such a Sunday as that Sunday. Never, as he entered his pulpit on the morning of that immaculate effigy, had he so tasted the blessedness of persecution. Calvary church was then the foremost in the city, of whatsoever sect or creed. Its pastor was talented, popular with all classes, being

revered as have been few men in California before or since. He was strong for law and order until the days of secession, when displaying strong southern sympathies offensive to many, he finally deemed it best to depart for Europe. Ah! those were glorious days when the pulpit was not inseparable from greatness; when all men, good and bad, revered the sanctity of religion; when the hem of a preacher's gown carried virtue with it, and the air he breathed was fragrant with piety!

Of course all had their say about it. It was straightway the fashion to condemn the act. No one dared to uphold it. It was cowardly, dastardly, and all that. The newspapers on both sides vied with each other in reprobating the deed. It was a god-send to the hungry *Herald*, being the first bit of substantial food it had had in many a day. "On yesterday morning," it groans, "the morning of God's holy day, was perpetrated in the streets of this city an outrage so damnable and disgraceful that as Californians we are pained and humiliated to be compelled to record it. The Reverend Doctor Scott, a clergyman of the Presbyterian Church, was hanged in effigy from a lamp-post opposite the church of which he is the revered pastor. An act of Vandal malice more atrocious, an act of meanness more revolting, an act of cowardly ruffianism more utterly, more unspeakably disgraceful we have never, in the long course of our journalism in a city where outrages and atrocities have been by no means unfrequent, been called upon to chronicle." Alas! for the poverty of English adjectives that Mr Nugent should be obliged thus to strain himself and his dictionary to find expression for the deep damnings within him.

"There are no words sufficiently strong," echoes the *Bulletin*, "to express our condemnation of the deed at the portals of Doctor Scott's church yesterday morning, or the contempt and detestation we feel for the perpetrators. The act was sacrilegious and cow-

ardly, and merits the severest reprobation." "We blush to be called to chronicle," says the *True Californian*, "one of the most disgraceful acts against public decency and decorum that has ever come under our notice." The *Post* is "most heartily ashamed to record," etc. The *Town Talk* is "glad the act has been justly stigmatized," and so on.

Now hung be the heavens in black, and let the earth groan! Let the sun never more shine upon that lamp-post; let all who dwell within the sound of the great triangle rush to the hills and hide their heads beneath the sand! May the ghosts of Casey and Hetherington forever hover about the nightcap of every vigilant's wife, and may all California from Yreka to San Diego to the depth of twelve feet blush to blood-redness in view of this elevation to a lamp-post of a tattered coat and patched pantaloons, the property of a certain well known bottle-merchant!

From the present point of time and intelligence the performance strikes me as neither good nor great, nor yet so very horrible. It was senseless and silly, and probably done by hoodlum boys, for the fun of seeing men make asses of themselves over it. The fact that the original of the figure was a clergyman made not a whit difference as to its merits or demerits, except that in so far as a clergyman commits an act worthy of punishment, in so far he should be more severely punished for it than the poor wretch whom environment has degraded. If Doctor Scott and Judge Terry leave their places to mingle in the fray, they should not cry the protection of their cloth if they are hurt.

A small class opposed the Vigilance Committee from pure motives, but there were not many, and these not of the clearest-sighted sort. Just as in religion the most devout worshippers are the most ignorant, the most sluggish of thought, so here there were honest but stupid men who found it difficult to open

the eyes of their blind faith in law and legal forms, and unlearn their respect for tribunals of justice taught them and their fathers. Sacred to them were all the forms and dogmas of their creed, however absurd, and sacred to them were all the forms of justice, however hollow. In government and religion many things are deemed sacred solely because they are old, and the origin of which, if we could know it, would make them appear profane enough. But the chief opponents to the movement were those whom it most directly affected in their persons, their pockets, or their reputation.

CHAPTER XXXVIII.

THE FRUITS OF VIGILANCE.

> An honest man may take a knave's advice,
> But idiots only may be cozen'd twice.
>
> *Dryden.*

The one great cry of the opposition, prolonged from the beginning to the end of the crusade, and echoed by wise legislators, learned jurists, and public journalists at the east, in Europe, and throughout the world, was the disastrous effects which would accrue in the end, and the reaction. "It was not the fall that would hurt," said they, "but stopping so suddenly." So this grand tribunal would find itself in a position where it could not lay aside its power without disaster to its members.

The whole effect, it was asserted, would be bad, anarchical, prejudicial to order and quiet good citizenship. Teach men to cavil and threaten, foster in the minds of the people mobocracy, admit the right to rise at every slight offending, and you might as well do away with constitutions and statutes, and be ruled by the rabble entirely. There may be somewhat of truth in such remarks in the main; but let us see how they apply in the present instance.

Although opposed to office as a reward, opposed to the subtle snares of politics in political purifications, opposed to the trading and tricking called patriotism, the Committee of Vigilance were not opposed to letting the beneficial influence of their purgations permeate government in common with morals and every element of social well-being. Nay, they demanded it.

Government above all things needed regeneration, not revolutionizing but cleansing, and their work would prove futile indeed did it not secure this blessing. The Committee would have, as nearly as they could command it, purity everywhere, honesty, integrity, the same in public relations as in private, purity at primaries, at the polls, on the bench, in all offices and relations of government.

And now that their work was done they would not absolutely interdict office among their members, though for themselves, that is to say the nobler-minded, they would shun the very appearance of sinister design; and, indeed, it were better, as they often said, for vigilants to eschew office wholly and forever. For the moment such aspirations crept upon a member he would find it more difficult to be disinterested. He ceased to be wholly free, wholly unselfish. He could no longer weigh motives in the even balance of rectitude, and he incontinently came to eye every man who could influence a vote. His will was in a measure dissipated, his manliness was often gone, he must become the tool of a party perhaps, and the toady of vulgar men. His character, his conduct, his thoughts, and aspirations all must in some degree change. He is no longer the material of which vigilants are made. He has sold himself, and henceforth he is one to be watched, and not a watcher; he is one to be suspected, his opinions are no longer impartial.

But while avoiding office themselves, they made it their bounden duty to see public places filled by good men, and of these there were many not within vigilant ranks. It is true they were not of the nobler sort, for as things go the best men are not found in our public stations; they were as a rule not of very pronounced character, and if not very good neither were they very bad.

Here was something of a dilemma. The men of vigilance must not become politicians, and yet they must rule politics. The fruits of the reform must be

preserved; and it was finally determined that the best way to accomplish this was to organize a people's reform party, which should ignore all then existing parties, and should seek to carry into political circles the purity and unselfishness which characterized the Vigilance Committee. This was the plan: unsullied men, irrespective of party, were to keep unsullied the people's rights.

This was well enough, though in reality it was only creating a new political party, which, like all new parties, should sweep clean the halls of government for a time, and then become corrupt like the rest. This people's party, however, was a great success at a time when something of the kind was imperatively demanded. It was ruin to the best interests of the city to allow to remain in power the old office-seeking element, which made a traffic of the public service, buying and selling place as something by right belonging to them. And for ten years this new reform party did well, purging and purifying; during which time it was a common remark that no city in the world was better governed than San Francisco. It would be well if all men in office lived honest lives, but this is not to be expected. It is too much to ask of poor human nature. The government does not expect it. Advancement in it is based primarily on short terms, rotations, and quick and questionable dexterity, rather than on slow meritorious ascent. But better a ten years' respite from gross iniquity than none at all. The state at large was less fortunate, as we shall see.

If members of the Vigilance Committee did not feel at liberty to enter politics, there were enough who did; wary good men, careful conservatives who loved to reap where others had sown, who carried themselves circumspectly before the world, thereby accumulating a fund of reputation to be invested when morals were low. These would serve their country, and faithfully too—for a consideration.

While the Committee were still actively engaged

in their labors, these good sympathizers organized what was called the people's nominating committee, who attempted to select honest candidates from among non-office-seekers, and in the main they did their work well.

A mass-meeting was held in front of the American Exchange on the evening of August 11, 1856. It was largely attended by merchants and other prominent citizens, and steps for the organization of a political reform party which should continue the work so nobly begun by the Vigilance Committee were fairly initiated. Among other proceedings a committee of twenty-one was appointed to recommend candidates for municipal and state officers, and to take steps to secure their election. The following resolution was likewise offered:

"That the recent exhibition of the popular will, under the form of a vigilance committee, as manifested in this city, exhibits in strong relief the gratifying fact that the public safety is not solely dependent upon the form of government, but with us is based upon the intelligence, the patriotism, and the unity of the people; and that in our judgment, the patience in deliberation and the calmness in decision manifested by that body in the recent crisis, when they could neither be awed by power nor shaken by passion, proves that California has within herself elements that will ensure obedience to the laws when fairly administered, and a glorious future, if we be but true to ourselves."

There were composing this party few who had been prominent in the vigilance movement, which shows yet again that office was not the object of the leaders of the Committee; but it inherited to the fullest extent the opinions of the Committee, pledged itself to their purposes, and subscribed to the principles of vigilance, engrafting them upon their creed, and writing them in their catechism.

In the autumn elections of 1856, owing to the splits of the opposing party into republican, American, and people's, the democrats carried the state by a large majority. Now as the law and order men were democrats, the democrats anywhere might catch and hang as many horse-thieves and desperadoes as they

pleased; the more the better. In the case of the San Francisco Vigilance Committee the issue was between the merchant and workingmen, and the politicians and non-workers. Whether it was a necessary or worthy movement had little to do with it. And to carry their point, governor, lesser officials, and lawyers all stooped to countenance knavery, to hobnob with scoundrels, and strike hands with wicked men for the putting down of the just. In February 1857 a gang of robbers and murderers was captured in the southern part of the state, and a dozen of them hanged immediately by the people. The popular verdict was, "Well done!" Not a word then had the law and order men and journals, before the *soi-disant* guardians of the constitution, to say about traitors and stranglers.

After disbandment, plans were proposed by the executive committee for the protection of the ballot-box, and the board of delegates were called upon to concur and assist in their execution.

A committee was appointed to select captains and lieutenants to take charge of elections, on behalf of which, on the 28th of October 1856, Mr C. J. Dempster reported. The following is a copy of instructions issued by the committee on elections to the officers who were to be placed in charge of the polls:

"SIR: You are hereby appointed by the executive committee of the Committee of Vigilance to take charge of the vigilant police force which will be detailed to preserve the public peace and order in your district upon Tuesday, the 4th of November next. In assuming this responsible position you are reminded that neither the Committee of Vigilance as a whole, nor its members in their official capacity, can assume any side in political controversies. The adoption of any other course would not only be wrong in itself, but would surely result in dissension, since it is probable every shade of political opinion and belief finds many adherents among its members. The duties confided to you are the preservation of the ballot-box from any attack, and the securing to every citizen, whether good or bad, the free exercise of his elective franchise. For the attainment of these ends it is recommended that as early as possible you will invite the men selected to act under your orders on that occasion to meet you, and show them this authority. You will obtain

from each of them a pledge that, laying aside all other business, he will on that day report himself to you at the polls ready for duty, and will not absent himself without your permission. You will recommend each of them to vote as early as practicable, in order to be prepared for any duty which circumstances may require. You will carefully enjoin upon each to make no display of weapons except under the most imperative necessity, to be courteous to all, and abstain from demonstrations of any kind unless required by the contingencies above expressed. Should it become necessary for the preservation of the public peace to make any arrests of drunken or disorderly persons, you will send them to the station-house, but should any person attempt to vote twice or put in two votes at once, or should there appear to be any organized attempt to destroy the ballot-box, or to take it from the legal custodians, or during the counting of the ballots to interfere with the same by force, you will at once despatch a mounted messenger to the executive committee, and immediately arrest the perpetrators, and send them under a sufficient escort to the building in Sacramento street lately occupied by the Committee of Vigilance. It is expected that by arranging reliefs you will obtain a sufficient force to protect from violence the officers and the ballots until the counting is finished. Should the officers who have charge refuse, contrary to law and the instructions of the board of supervisors, to allow a reasonable number of peaceable citizens, representing as nearly as may be all the political parties, to be present during the counting of the ballots, you will immediately report the fact to the executive committee. The dragoons, who will be at the polls, will be your best and most speedy messengers. You will suggest to the men under your command the importance of keeping so careful a watch upon all who surround the polls, that no criminal shall hereafter escape punishment through lack of direct and reliable testimony. You will remind every man that he is in some measure the representative of seven thousand freemen, and that new lustre may be cast upon the good the Committee of Vigilance has already accomplished, by the energy, discretion, and impartiality he may manifest upon election-day, while the lack of any of these qualities may tarnish not only his own character, but the reputation of the body of which he is a member, and entail evil consequences upon the entire community."

The election of the 4th of November, so far as San Francisco County was concerned, resulted in the victory of the people over the professional politicians. The fact that Buchanan, democrat, received the largest number of votes for president, while the congressmen and state and city officers elected were republicans, people's reform candidates, and vigilants, shows that while a majority of the citizens favored the democratic party, they were, by the late trials which they had undergone, sufficiently divorced from party to cast their votes on the side of purgation and purity.

Already was now in force in San Francisco the consolidation act, devised by Horace Hawes, by means of which the city and county were united under one government with reduced legislative powers, and with taxes, which might be levied for each specific object, limited. This act required a strict severalization of the public fund, and prohibited, at any time, drawing or borrowing from one fund moneys to be employed for the benefit of another fund. All officers of the government were brought down to strict economy and accountability.

Its origin was that same dissatisfaction, arising from long-continued indifference, neglect, not to say rascality and criminality in public affairs, which called into being the Vigilance Committee; and although drawn by a mind regarded by some as bordering on insanity, and passed by a legislature little loving San Francisco, it was a most wise and practicable measure for thriftless, peculative times.

Some said that to this act rather than to the people's party San Francisco was indebted for her subsequent good behavior; but this is hardly true. Laws are of little avail when the people are not with them, as we have seen. Besides, Sacramento had her Vigilance Committee and her economic charter, but neglecting to put good men in office, her finances and morals were comparatively little improved thereby.

It was a different class of men that now became officers of the San Francisco municipality. Of the Vigilance Committee, after its disbandment, a few accepted office. Tillinghast was nominated for city treasurer, James F. Curtis for chief of police, and Doane for sheriff. Henry P. Coon, an elder of Calvary church, educated as a physician, a man of moral presence and of the highest integrity and respectability, was made judge of the police court, and as such became famous in dealing strict and impartial justice. Like many others, Mr Coon had sympathized with the Vigilance Committee, but had

never been a member of that organization. Though cautious, too excessively so ever to have made a reformer where the risk was anything like that incurred by the members of the Vigilance Committee, yet, with the sense of the community at his back, and sure that personal and pecuniary safety, social standing, and morality as well, lay upon the same side, he could castigate vice soundly. He did most excellent service in that position, and was reëlected until he felt obliged to decline the office further.

As police commissioner Mr Coon likewise did well. In connection with his two associates, the chief of police and the president of the board of supervisors, he selected from a thousand applicants of all grades a new police force, and what was yet more difficult, kept up the moral tone and efficiency of the force afterward.

The policemen of our American cities are a byword, a standing joke on justice. Composed mostly of the lower quality of our imported element, who, by attending at primaries and working for the successful candidate at the polls, have in their own opinion earned subsequent distinguished recognition, they sun themselves upon the streets, draw their salaries, and repose upon their luck and laurels. If wakened from their *dolce far niente* by the report of a pistol, and the offender rushes into their arms, they lead him off to prison, proud of their achievement. But he who expects from detectives that activity and keen enthusiasm in the ferreting of criminals which the case seems to demand, without the stimulus of reward other than that of salary, is smiled upon for his simplicity. Go to the police-office of any of our cities and enter a complaint. If you want thorough and efficient action you must pay for it, and pay in proportion to the amount of work you want done. So long as politics is made a profession, and office the reward of pre-election service, the people must expect, if they would have a thing well and quickly done, to do it themselves. By

the zealous and sagacious Coon the fat guardians of the city were made for a time to bestir themselves, until vice of a truth became afraid, and hid itself. Under this reform administration evil-doers knew almost to a certainty that their crimes would be detected and punished.

When the new officers came into power the city treasury was not only bankrupt, but scrip had been issued anticipating the revenue for months to come. The consolidation act was extremely rigid in its provisions as to salaries and expenditures, and permitted the contracting of no debts for running expenses. The police-judge was obliged for a time to furnish his stationery at his own expense. The police docket becoming filled, the police-judge notified the board of supervisors that a new one was required. That body decided that under the law the book could not be bought, there being no public money under the control of the board. Finally, when it began to look as though the sentences of drunks and other important police doings would be lost to posterity, a member of the board arose and said that a court doing its work so well must not be left without a docket, and that he would furnish one himself. And sure enough the court was scarcely open next morning when the gigantic form of Samuel Meritt was seen entering the door, bearing in his arms a massive record-book, his big broad face beaming with satisfaction as he deposited it on the clerk's desk.

In truth, so narrowly were abuses watched under the new *régime* that peculation in office went out of fashion. Men positively prided themselves in being honest, efficient, faithful in conducting the business imposed on them by their fellow-citizens, with as strict regard to economy and success as they would employ in conducting their own private affairs.

The gas company ran up enormous bills against the city, and, as usual in such cases, protested they could take no less. Thereupon the new officials turned off

the gas, and each supervisor, judge, or other public night-worker brought his tallow-dip, whose dim but honest flicker argued a brighter, purer light than any hitherto flashed by brazen iniquity. And when judges suggested stoves to warm their rooms withal, the city fathers pointed to the beauty of the Californian climate, which so favored an impoverished city treasury as to render the expense of fuel unnecessary. Many a city lot had been rendered valueless by the arbitrary grading of streets over the sand and stone hills of the peninsula. By the new charter, backed by official pledges, streets were to be opened or reduced to the official grade only as petitioned for by property-owners. And even then there was iniquity enough in it to ruin many real estate owners.

To E. W. Burr, the first president of the board of supervisors elected under the consolidation act, much praise is due for his unwearied energy in providing ways for supporting the impecunious government. It was finally determined to lay a temporary tax on trades and occupations, a burden the people cheerfully bore, that the proceeds might be used to bridge the present financial emergency. The police-judge's court was likewise a source of revenue, as the fines imposed were by no means small.

Within a year the former signs of desolation in municipal affairs began to disappear. The city's credit was restored, and the clouds of gloom were lifted. Money began to accumulate in the city treasury. Bills were paid in cash, confidence was restored, and San Francisco entered on a career of unprecedented prosperity. Mr Coon was subsequently twice elected mayor, once in 1863 and again in 1865, serving four and a half years in all.

Now let us recite as briefly as possible what the Vigilance Committee of 1856 actually did. We may safely say it put a stop to open street murder, to unblushing corruption in courts, to ballot-box stuffing

and election frauds, and to divers public immoralities in their numerous nooks and phases. It lifted down-trodden virtue, and made right respectable. It purified the atmosphere of politics, and cleared the sewers of society.

If we confine ourselves to particulars, the actual punishment inflicted by the Committee was as nothing compared to the actual effect of the organization. Four men only were hanged; but the lesson taught was the same as if the number had been four hundred. Thirty or thereabouts were banished, twenty-five actually shipped hence, and five or more notified to leave; but it was roughly estimated that eight hundred of the worst characters a community was ever cursed with left in consequence. Think of it. In so small a community, eight hundred human vultures, thieves, murderers, corrupters of public morals, gamblers, prize-fighters, ballot-box stuffers, loafers, and vagabonds, feeding on the labors of honest men, driven hence almost in a body. It was a grand triumph of the right.

And not only were the honest thus obliged to support the dishonest in idleness, but they must build jails for them, and hire officers to watch them, and pay judges—alas! too often not to punish them as I ought to say, but to liberate them. When we think what harm one bad man can do, think of eight hundred betaking themselves from a community of less than fifty thousand, and then talk about the evils of anarchy and reaction!

A few figures will best show the nature and extent of financial reform. Officers' salaries in 1858, with an infinitely better governed city, were little over one quarter what they were three years before. The city and county expenses were in 1854, $1,831,825; in 1855, $2,646,190; in 1856, $856,120; in 1857, $353,292; in 1858, $366,427; in 1859, $480,895; in 1860, $706,719; in 1861, $512,896. Prisoners and police in 1855 cost $236,690, and this was mostly expended in

maintaining and liberating criminals. In 1858, when the number punished was ten times greater than during the year before mentioned, the expenses were $59,943. For extra legal services the city was taxed in 1855 $31,821; in 1858, one quarter that sum did five times the execution. For advertising and stationery the city paid in 1855, $65,231; and in 1858, $2,727; assessment expenses in 1855, $45,011; in 1858, $9,100; election expenses in 1855, $22,920; in 1858 they were nothing. And so on. And this while from one fifth to one third of the city's revenue went to the satisfaction of old claims contracted during the swindling epoch. Since the expiration of the ten millennial years expenses have gradually increased, until now the government of the city costs at least twice or thrice what it would cost under prudent management.

It was stated that Sheriff Scannell paid the democratic central committee $100,000, regarded as equivalent to election, for his nomination to an office with a salary of $12,000 a year for four years; and yet as times were, there was money in it. David's eye was not Banquo's, nor yet like the eye upon the vigilant seal having no speculation in it; David saw much gold in perquisites, to which fund undoubtedly Casey and Cora would gladly have contributed a few thousands.

So simple a thing as the impanelling of a jury was profitable if one understood one's business. Likewise witnesses were always at hand who would testify on either side of any case, even though they had never heard of it before trial. Knights o' the post they were called in ancient times, persons who waited at the proclamation posts set up by sheriffs at their doors and haunted the purlieus of courts ready to swear to anything for a consideration. There was always money in office for judges ready to sell state morals by auction, as well as for sheriffs, who bought truth cheap and sold falsehood high.

The public leeches had not only absorbed the vast

patrimony inherited by the city, but had piled up a mountain of debt bearing interest at the rate of thirty-six per cent. per annum, under which she staggered seemingly toward bankruptcy. The frequent efforts for reform had secured some good officers in public positions, but their number bore no proportion to the sacrifices and perils encountered, and their influence was almost neutralized by the tricks and thefts of their coadjutors.

Now public confidence in the ability of the citizens to govern themselves was restored. The Committee had asked of the commonwealth no limitless privilege of *fossa et furca*, but only a little patience as the reward of great pains. Meanwhile the authorities, shorn of their strength, looked in wonder on the people who had thus wrested from them the power with which they had so lately invested them. They wondered, and they complained that some serious evil would come of it; but they mistook the intelligence and discretion of the people.

From this time forward the price of real estate advanced rapidly in all the principal towns of the state. Builders went forward in their improvements, with more confidence in the integrity of the commonwealth, and more security from the atrocities of criminals. Morality once more held up its head, and men talked again of bringing wives and sisters to the country, and of making this their permanent residence.

Another benefit of the new system was to put down that pest-house of politics, primary elections, where bribery was barefaced and expected, and all sorts of trickery that human ingenuity could devise was concocted to be let loose on election-day. In place of this evil, each year as election-day drew nigh a nominating committee, first chosen by the originators of the people's party, and after that each committee naming its successors, selected candidates for office according to their honesty and fitness, and recom-

mended them to the people. To avoid the evils attending the continued centralization of power, the members of each nominating committee pledged their predecessors to receive no nomination themselves within a given time.

No man living knew better the theory of the people's party, none knew better what should be the attributes and rationale of an organization having in view the unification and preservation of the benefits accruing from the arduous labors of the Vigilance Committee, than Mr Clancey J. Dempster. No man took a livelier interest in the closing affairs of the Committee, or labored more intelligently, more untiringly to secure to San Francisco the inestimable blessings which were made her rightful heritage, bequeathed by the noble men who had so long and earnestly and silently striven to achieve a conquest over evil, which should give their sons and their sons' sons fresh courage in battling for the right. None saw more clearly, or felt more deeply, or spoke purer words than he; and I cannot do better than here to give his views upon the subject as taken from his dictation.

"The people's party," says Mr Dempster, "realized that rotation in office was the primal cause of the adulteration of public virtue which, unless it were checked, would bring to bear upon our republican institutions an almost unendurable strain; and the organization resolved to grapple with the evil, and endeavor to educate the public mind to a comprehensive understanding of its fatal tendency. It was also realized that the corrupt and inefficient governments of our large cities had become a standing reproach to the great republic, and that this state of affairs must be remedied, or at least modified, if the example afforded by our country of the wisdom of a government of the people, by the people, and for the people, was to continue to influence the thinking minds of the other nations. For the attainment of this end the leaders

of the people's party saw that it was necessary to separate the local municipal government from the general party politics of the state and nation. Some desired to go a step further, and vest the power to levy and disburse taxes in officers who should be elected exclusively by those who paid the taxes, and thus escape the many evils attendant on taxation without representation. These men realized that civic patriotism could be depended on only for emergencies, and could not be relied upon to secure that constant watchfulness which is as much the price of municipal official integrity as eternal vigilance is said to be that of liberty. They felt that in order to secure the safety which might result from enlisting the universal passion of selfish regard for one's own pocket, and escape the control of voters indifferent to municipal extravagance or dishonest officials, because unable to perceive the direct injury to their own pecuniary interests, such was the only solution of the difficulty. Active minds of the Vigilance Committee recognized that a reform with such aims could be effected only by long continued effort. The exertions of the Vigilance Committee had been required to clear the field; to relieve the community of the terror inspired by the association of the rough element with the corrupt rings of the plunderers of the city, and to protect the timid from all danger in the assertion of their right as freemen to vote at elections; and to break up the gangs of patent ballot-box owners into which they fraudulently stuffed the number of ballots needed for their purposes. They recognized the fact that the work accomplished was only the first step; that diligent and persevering labor was requisite to cleanse the Augean stable, and disentangle the almost inextricably confused finances of the municipality in order to put them on the pay-as-you-go basis, and this without taking any open and prominent part in organizing the people's party. Chiefly by their counsels, therefore, they were able to establish it on a basis which gave it

the control of the city government for a period of eight or ten years, during which time the financial obligations of San Francisco doubled in market value, and the taxes were reduced uniformly and equitably.

"The courts too were redeemed from the old reproach of inefficiency and partiality. Many of the exorbitant fees which left the individual by whom they were paid impoverished, and merely served to make their ultimate recipients the wealthy chieftains of gangs of retainers, were first reduced, and then turned into the city treasury, while the officials to whom they had been paid were compensated by reasonable salaries. This course relieved the citizens of the incubus of offices of immense profit being at each election struggled for by candidates ready to disburse in bribes and subsidies to corrupt men a very large percentage of the pecuniary value of the posts to be obtained. A public sentiment was created which made jury duty a sacred obligation to be fulfilled with comparative cheerfulness, from a due sense of duty to one's fellow-citizens, and the paramount importance of the public weal; and this very materially aided in bringing it to pass that the administration of justice from having been a byword now commanded the public confidence and respect. Before the organization of the Vigilance Committee society was completely disorganized. Property had no protection, and life was insecure. The obligations and privileges of a considerable portion of the people were even less secure than they would have been in a semi-barbarous country. Murders innumerable were openly committed, and the murderers went unpunished. Very many citizens felt that the time was fast approaching when they should find themselves obliged to abandon the brilliant business opportunities offered by San Francisco's advantageous position, and return to those communities where, if the returns of labor were less, it was also certain that safety of life and protection to property were to be obtained. The power of the

Vigilance Committee had swept away forever the most corrupt of those rings which had brought about the chronic evils which called that organization into being. The faithful and persevering efforts of the people's party restored to a grateful and rejoicing society all the welcome sanctions of law and order."

One year after the inauguration of the people's party we find in the journals of the day such expressions of satisfaction as this:

"Probably no commercial city in the United States has as much cause for self-gratulation as San Francisco. For three years past she has suffered the very extremity of hard times. Her business had fallen off; her population had decreased; her property had become vastly depreciated. Worse than all, her government was in the hands of a corrupt and unprincipled knot of leeches, who had sucked every drop of her revenue, and were fattening upon her credit. It was at this crisis in her history that the people awoke to the danger of their position. By the exercise of courage and decision almost unparalleled, they wrested the control of the city's affairs from those who had ruined and made her bankrupt. They instituted economy in place of extravagance. They inaugurated thrift, honesty, and official responsibility. The doctrine was enunciated that hereafter we must pay as we go, and that whenever we did not have the money to advance for a thing we would have to do without it.

"Never did experiment work better. It takes an effort of imagination to realize that this is the same San Francisco that we lived in two years ago. We have now, truly, a model government. Notwithstanding the fact that our population is composed of exceedingly discordant elements, made up by accessions from all parts of the world, we enjoy a freedom from riot and disturbance not exceeded by any city in the union. Property and life are both as secure here as they are anywhere. People travel our streets at all times of the day and night, feeling perfect safety. The carrying of arms has been almost entirely discontinued. Affrays and bloodshed, which seem to prevail all over the United States to an extraordinary extent, are now so rare here as to be almost unknown. Public gambling has been abolished, and the blacklegs and loafers who used to block up Montgomery street have fled to more congenial atmospheres.

"Compare San Francisco in those respects with Baltimore, or New Orleans, or New York, and see how much the advantage is on our side. The mail just arrived from the east brings us the news of desperate riots at New Orleans, of the systematic and deadly warfare between the Irish and American citizens there. Every night a murder or two, or a mob, or a desperate riot, is recorded. On election day, full one third of the voters feared to show their faces at the polls, such was the terror of ruffianism. In Baltimore it was worse. We see that city declared under martial law by the governor of Maryland, and seven thousand soldiers called upon to maintain the purity of the ballot-box. In New York is the old succession of outrages and riots.

"And in business affairs, also, we have just reason to be proud. The panic which has swept over the whole country, has left San Francisco almost unscathed. Our journals are not burdened with lists of failures. Our streets are not crowded with men and women thrown out of employ. If anything, business of all kinds has lately been given an impetus, and our prospects appear brighter to-day than they have for several years before.

"San Francisco favorably compares, also, not only with her sister cities at the east, but takes precedence of all the other cities and towns in California in point of good government and economy of management. While Sacramentans are groaning under a rate of taxation which is declared to be heavier than they can bear, we get along without difficulty upon a rate of taxation a little over a half as much, and are thinking of a reduction. Nobody talks about repudiation here, or of demanding that our bondholders shall reduce their just interest, as they do in Sacramento. The affairs of Stockton and Marysville are in almost as bad a way as are those of Sacramento. All of these places are rapidly running in debt. All of them have for officers men who neglect to pay sufficient attention to the necessity of public economy. To reward partisan favorites they squander the money of the people, without paying heed to that general bankruptcy which stares them in the face.

"And our superiority of government is no less manifested by the manner in which the laws are enforced. While the rondeau-players openly violate the statute everywhere else throughout the state, they dare not practise their calling here. For a week or two they tried it; two or three hundred vagabonds from the interior towns flocked here to fleece the people. Fifty or sixty rondeau-tables started. But the stern edict of Judge Coon went forth, and rondeau games collapsed, and the gamblers fled back to their old homes, discomfited.

"Our people should not fail, therefore, to appreciate these advantages. We know that the remnant left of those who have been driven from office and out of responsible positions keep their tongues wagging to depreciate the present government. These people pine for a return of the old order of things, but we fear little from their dissatisfaction or their slanders. Our people know too well when they are benefited."

Shortly before election there was an annual appeal to the voters by the people's journals, one of which, issued seven years after the killing of King, I insert here to show the contrast in the times:

"On Tuesday next the voters of the city are to decide whether their municipal affairs shall be administered as they have been for seven years past, or shall be turned over to the politicians. Our own history tells us precisely what to expect if they conclude to try the latter. San Francisco is fourteen years old. Seven years she was governed by politicians, seven years the people have managed her affairs. While the former ruled, improvements were neglected, taxes swelled enormously, property, which naturally should have advanced in price, either depreciated or barely held its own in value. Riots prevailed, violence was an every-day occurrence. Murder, veiled or

open and defiant, stalked through our streets. Honest men were compelled to go armed to their work, and every bush concealed a villain. Justice was perverted. The courts were rather the sanctuaries of criminals than their terror, and crime, if only deep and heinous enough to command the sympathy of unjust criminal officials, was sure to go unpunished. We were a disgraced, dishonored city. Life insurance companies charged extra premiums for residence here, and a man at the east who showed the uncontrovertible evidences of his wealth in real estate located here, was deemed the possessor of the most slippery sort of property that ever went under the name of real estate.

"Seven years up, the people dethroned the villains, expelled the hounds, banished incorrigibles, executed murderers, and undertook to govern themselves. Now how the picture changes. The physical face of the city assumes a new aspect. The streets shoot out into the suburbs and improvement is everywhere busy. Taxes cease to be onerous. We pay not one fourth as much for good government as the villains sweated out of us to support them in their infamous power to tyrannize over us.

"The streets are busy with the rattle and hum of industry, and the cry of one suffering violence is rarely heard. Night is as safe as day. The stranger wanders into the remotest suburb, or threads the narrowest alley, safe from assault, or the slightest suspicion of danger. Criminals abhor the city, for they know that detection is sure here, and punishment is certain. The courts are the friends of the poor man, and the injured appeal confidently to them for redress. Property is safe, and from afar seeks investment here. There is no city of its size in the union where there are so few burglaries, where the carelessness of house-keepers betrays them into so few losses, where incendiarism is so rare, where grave crimes so seldom stain the calendar. The life insurance companies have long ago ceased to charge extra premiums for residence here; the risk of violent deaths is less than in any other city of its size in America. Our finances are in a wholesome condition. We can afford to aid great public works. Our reputation everywhere is good, and our position in the society of cities coveted far and wide.

"There is no sophistry in the argument; no one denies or disputes the cause of this marvellous transformation. For seven years we were governed by the class who fancied themselves born to rule and fatten at the expense of honest, working, sober men; and during that while we suffered all that a city in a land at peace can suffer. Then for seven years the people attended to their own business, governed themselves, managed their own affairs. For seven years we were the slaves of the politicians, for seven more the politicians have been kept out of power and underfoot. Shall we return to the old order of things, or preserve the state and the good name which with so much toil we have won? Next Tuesday we shall have the answer."

Up to the year 1865 the people's reform party was very popular. The public pulse, set wildly throbbing by the war for the union at this time, had reached its most feverish point. Hitherto all questions of politics had been carefully kept out of the reform party.

Now loyalty to the federal union, a question vital in itself but secondary in local affairs, rose paramount to every other consideration, and the rabid demagogue press raved over the subject. An ill-timed and unfortunate resolution passed at this time by the people's nominating committee, to the effect that no person who had not voted for Lincoln and Johnson at the presidential election in 1864 should be nominated as candidate for any office, sealed their influence. Before this time there were many good democrats with the people. But the party was now split; three tickets were again placed in the field, and although the fruits of that reform never can be wholly obliterated, yet those strong bonds of purity which kept them united during these nine years never can be joined.

But what had become of the opposition, and what were they doing all this time! During the time local politics ceased to be a trade in San Francisco some entered the arena for state spoils, which were still the prey of good democrats. Some left the country for more genial political airs. A few adopted honest callings and became useful citizens. But all those that remained were very quiet, very circumspect. As Mr Manrow remarks of them, "The law and order fellows were always listening for the tap of the bell."

This was almost the first time in the history of the state where the people of San Francisco were heartily sustained in a popular movement by the country. Mining and agricultural districts have very stupidly and very unjustly looked upon the growth and prosperity of the city with more or less jealousy. "It is our gold and our labor that build their city and fatten them," they said, not thinking what would be the country without the city, without a market, or any place for the purchase of supplies, not thinking to what a low ebb the intelligence of a country sinks, away from the cultivating and progressional influences

of cities. But having so long felt the incubus of crime and misrule in their own midst, and realizing, moreover, the epidemic nature of political and social corruption, which cannot exist in one part of the state without infecting every part, they rose almost *en masse* from San Diego to Siskiyou, and cried the vigilants on. Military companies were organized and drilled in almost every important interior town, and stood ready to rush to the assistance of the popular movement in San Francisco the moment the first gun was fired. On an eight hours' notice five thousand men assembled at Sonora the 6th of June, to give expression to their sentiments in relation to the attempt made by the governor to put down the Vigilance Committee.

Yet there were not lacking men of law elsewhere than in San Francisco. A communication to the Los Angeles *Star* of the 9th of August 1856 bewails the Vigilance Committee of San Francisco, "who have set at defiance the law, disregarded state and federal constitutions, taken by force the state arms, placed themselves in open rebellion to the governor, arrested and manacled citizens, denying them the writ of habeas corpus; who have sent their emissaries into other counties, seized and dragged to their bastile their fellow-citizens, hanging some and banishing others. Having taken steps which they could neither continue nor retrace without infamy and probable bloodshed, having brought the state into disrepute abroad, and made life and property insecure at home, what was to be done? Bloody are they now, and butcher-bloody must be their future. Shall Los Angeles march on San Francisco and deluge her streets with the blood of her citizens? No. Fellow-citizens, to me it appears the only manly course for us to pursue is to separate ourselves from all civil and political connection with San Francisco and those who side with her, except as a separate state." Alas, poor San Francisco! Level now thy

hills and fill up thy valleys. Hide thy face, O citizen! Bury your heads ostrich-like beneath the sand for shame and fear, O Dempster and Coleman! Los Angeles shakes her skirts of you! Forgotten are her own arbitrary slaughterings, her jail-breakings, and her glorious crime exterminations, outnumbering five to one those of San Francisco; forgotten are the sometime bandit-decorated trees of her suburbs, her own honest and efficient committees who bravely risked their lives and property for the common good. This is not Los Angeles that speaks, but some unfledged law-fanatic, lately arrived, who feels that he must bray or burst.

Judge Hayes expresses the opinion that, but for the feeling on the part of the civil authorities of Los Angeles while McGowan was enjoying his *otium cum dignitate* in that vicinity, he would have been arrested and sent back to San Francisco; but the sheriff of Los Angeles did not feel inclined to arrest a refugee from justice, one who had been indicted by the grand jury of San Francisco County, and who in his opinion should be dealt with only by the courts, and send him where he would be sure to go, namely, to the chambers of the Vigilance Committee. Thus we see at every turn that by officers of the law justice is made secondary to form, punishment to pique.

They did not believe, they said, that the citizen was bound in conscience to aid in such a proceeding, but was justified in refusing to carry into effect the order even of the authorities when the certain consequence would be a violation of the laws that treat the execution of the vilest criminal, without legal authority therefor, as itself neither more nor less than murder. So they would break the law themselves to prevent the people of San Francisco from doing so.

Great credit was due the city of San Francisco, in the face of such sore temptation, for this triumph

of order over anarchy. So easily could they have settled the matter, so swiftly could they have sent after the assassin that justice which now must move so slowly, that the city people praised themselves for their moderation, and so did they of the interior.

"I consider these uprisings of the people on great emergencies," writes Mr Watkins, who has thought much upon the subject, "as bordering on the sublime. They certainly spring from a most hallowed principle, a principle deeply implanted in the bosom of every man by the hand of God; a principle which began with time, and will continue in all time to come; and we shall see its exhibition whenever an abused people shall be compelled to take upon themselves to defend a nation's rights or redress a nation's wrongs. My mind has settled down under the firm conviction that these uprisings are as necessary for the purification of the moral and political atmosphere, as that powerful and mysterious agent, which collects the materials of its awful battery from the dark bosom of the hovering tempest, is for the purification of the atmosphere we breathe; and you might as well attempt to dam the Sacramento with a leaf, as to stay their progress by the impotent and puerile legislation of fledgling politicians. The action of the Vigilance Committee of San Francisco grew out of this principle, and was remarkable for order, coolness, wisdom, determination, and patriotic sacrifices. Their complete justification is found in the midnight assassinations of San Francisco's citizens, which went unwhipped of justice; in the mid-day murders of her peaceful citizens engaged in their lawful avocations; in the sacking, plundering, and the conflagrations of the city; in the corrupt administration of the law by bad men, put into their official positions by fraud and violence; and in the destruction of the people's will by the desecration of the ballot-box by cut-throats and thieves, felons, and escaped convicts of

other lands. The Vigilance Committee has the sympathy of the great body of the people; and that sympathy cannot be weakened by bloody laws or vindictive speeches, whether made in the name of the democracy or in the name of the devil."

Would you, weep the fire eaters, would you, had you known the sad results—could you have done it? See the poor but honest men you have driven into exile; see this great and good expounder of our time-honored laws and constitution whom you have incarcerated; see the gubernatorial pride which you have brought low! And do you not feel the halter's noose tightening hour by hour round your own necks?

No class of persons was more greatly benefited by the Vigilance Committee than the Chinese. One of the most approved methods of low ruffians for raising the wind was to maltreat or levy black-mail on the Chinese. As a testimonial of their appreciation of the benefits thus conferred, the Chinese merchants of San Francisco subscribed one thousand dollars to the Vigilance Committee fund.

"I personally disapproved of the Vigilance Committee," says the Reverend Doctor Woodbridge, in a frank dictation which he furnished me, "believing the people would feel the necessity of having proper officers, and would take legitimate methods to place them in a position to repress vice; but my present thought is that I erred on the conservative extreme." Doctor Woodbridge preached in Doctor Scott's church the Sunday of the jail capture; there were few men in the congregation.

A ribald press denounced the association as a mercantile junta, which was far from true. The storms of public indignation which swept the land in 1851 and in 1856, with their thunderbolts of justice purifying the air and making it the fit breath of virtue, arose with the people; the leaders were the

last to move. But once determined, then let what was to be done be done quickly. Their boast was not words, but the accomplished fact.

As a San Francisco pilot puts it to an incoming Englishman: "The thing became too hot, so we determined to put it down. We elected Judge Lynch. The first few weeks we hanged pretty frequent; then we exiled the rest, making death the penalty of their returning. Then we handed the town back quite clean to the law. It took us three months to complete the job, and it has been quiet ever since."

CHAPTER XXXIX.

REFLECTIONS AND LESSONS.

> Could any but a noble, prudent cause
> Begin such motions, and assign such laws?
> If the great mind had form'd a different frame,
> Might not your wanton wit the system blame?
>
> *Blackmore.*

THE reader should now have a pretty clear idea both of the necessity, if any, of work to be done by the Popular Tribunal on this Pacific seaboard and the manner in which such work was accomplished. He has seen living together in communities men of all kinds, the good and the bad, the pious and the profane, the educated and the illiterate, the refined and those of low tastes, but all of more than average intelligence and ability, as the world goes; the whole susceptible of division into two unequal parts, those endeavoring to live fairly and honestly among men, and those endeavoring to live by robbery, upon the labor of others. He has seen among these communities, at various times and places and under conditions similar and dissimilar, the greatest apparent necessity of arbitrary action by some agency other than any then legally existing.

He has seen that these communities were in every instance either without a legally constituted government, or else that government in their midst was so weak, or administered by officers so wicked, as to be in a measure inoperative. He has seen how outraged justice will sooner or later rise and put down villainy, according to law if possible, if not, then by means contrary to law, the righteous being always

triumphant. All which, probably, has been sufficient to enable him to form an intelligent opinion as to the *morale* of the matter, and as to the right of men so situated so to act.

It would be not unfitting to drop the curtain here; nevertheless, in taking leave of the subject a few reflections force themselves on our notice, and certain lessons, all of which, however, must be briefly stated.

The material composing these many tribunals was varied. They who thus banded were not all men of honesty and integrity, though most of them were; they were not all of that quality or calibre wherein cool reason ever holds in check hot passion, but their actions for the most part originated in a sense of duty, the duty of self-preservation, if not the preservation of society, and their judgments were formed and executed with no small degree of discrimination and fairness. We have seen many cases of mobocracy in the mines, where hiccoughing gold-diggers adjudged their fellow-creatures to death, and swung them into eternity amidst the drunken orgies of modern bacchanalia.

These popular punishments were sometimes no less horrible, no less criminal, than the crimes themselves. Wretches there are in this world, and they may deserve to die, and their lives may not be worth a rush; nevertheless, the effect upon those who, in the intoxication of power, dare to strangle this God-given breath and hurl to hades this God-given spirit, is most demoralizing, most brutalizing. Often it happened that while the informal trial was going on, judge, jury, culprit, and mob had all drunk themselves into a state of intoxication, so that when the fearful self-imposed responsibility of passing judgment upon the life of a fellow-being and conducting him to execution came up, the actors in the scene hardly knew what they were doing. Often it happened that the hanging itself was so bunglingly done as to be but

cruciation, the crushing of life out of a writhing body, by hauling it several times up and letting it down, midst prayers and shouts and hellish hallelujahs. But these sickening scenes, which were a horrible mockery both of justice and humanity, were the exception and not the rule; and bad as they were, the evils thence arising were light as compared with the evils of corrupt courts of law. Rather let us refer to the grand tribunals of San Francisco for whatever of instruction we would derive from these abnormal proceedings.

The San Francisco Vigilance Committee of 1851, and that of 1856, as we have seen, each hanged four men and banished about thirty. Each rescued two prisoners from the county jail by means of a surprise party. The expatriated of 1851 were mostly convicts from Sydney; those of 1856 were Irish, and other foreigners of low origin. Some of those ordered hence were born in the United States; others were made citizens by our luckless system of adoption.

The crimes committed by the victims of the first tribunal were against property and life, while those by the second were strongly tinctured with political immorality. McDougall, governor in 1851, bowed to what he deemed the popular will, and kept faith in his promise not to interfere with the Committee save in appearance only; Johnson, governor in 1856, after making the same promise broke it, opposed the Committee to the utmost of his power, and thereby increased their labor and prolonged their existence. The reformation of 1851 was superficial and temporary; that of 1856 radical and permanent. The tribunal of 1856, in the character of its members, was well represented by wealth, intelligence, and industry. Brought together by reason neither of mental nor physical ability, nor of social or political standing, nor of wealth or culture, nor of literary tastes, religious belief, or scientific attainments, but by the sole

consideration of integrity and zeal in the work proposed, there was obviously great variety of character in the men composing the Committee, and wide divergence of opinion on all topics but the central and absorbing idea. Side by side they toiled, the ears of the refined deaf to the blasphemer's imprecations, and his eyes closed to the frequent and inordinate potations of the dram-drinker. Biasses of religion, wealth, and cultivation were swallowed in the one almighty thought of moral regeneration. On the broad ground of common interest they met to battle with a common enemy, and before the achievement of their purpose all lesser sympathies and antipathies were laid aside.

The largest element comprised men from the north-eastern part of the United States; next those from the then so called western states, with some from the southern states. Of foreigners the French were largely represented, after them Germans, then English, Irish, and Italians. But seldom it was asked, Where is he from? What is his religion, what his politics, his wealth? The questions were two: Is he honest? What can he do?

Outside of the Committee were many who sympathized with and contributed to its support, but from prudential motives never joined. Likewise, there were those in the Committee who did not rightly belong there. But on the whole it was a wonderfully firm and pure company for one of so large and promiscuous membership. The executive committee was an intelligent, manly body, composed, with few exceptions, of good men but not all remarkable men; many of them were very superior men. There were present the usual varieties of qualities, positive and negative, in opinion and action, but they were mostly men of thought, and of independent thought. There was no lack of probity, patriotism, and practical sagacity among them.

Money was freely spent. Nearly all carried into the cause unswerving fidelity, which was their strength.

The vocations of merchant and master-mechanic were those most largely represented in the Executive.

We have seen that the mob-law of the miner, appealing as it does to brutalizing passions, and executed often under the influence of momentary excitement and strong drink, is a very different affair from organized vigilance, dispassionately, conscientiously, prayerfully if you will, and unselfishly watching the welfare of the commonwealth, using force only when all other means fail, using its power with moderation, tempering justice with mercy, and gladly relinquishing its distasteful duties the moment it can do so with safety. We have seen that the San Francisco Committee of Vigilance condemned and executed dispassionately, and on no less evidence than would have convicted in any well conducted court of justice.

But the spirit of mobocracy, even, does not appear without a cause. It may be that truth and justice are on the side of the rabble, or it may be that passionate ignorance alone governs them. In mobs there is method, as in other forms of popular madness.

And now that the farthest west is reached by civilization and good government, some may ask, what are the stranglers going to do about it? Will they find some other excuse for the display of their pride and power? Must we always tremble lest this spirit of vigilance, like a bird of evil omen, shall forever overshadow us? Not so. There will be popular tribunals as long as evolution lasts. We are never going back to king-worship or law-worship. But just such displays as California has given us the world will never again see, because the engendering conditions will never again be the same. Human nature may repeat itself, but history never. Never again shall this world see feudalism in its ancient form, or the fanatical extravaganza of the crusades, or chivalry, or religious wars like those of old, or inquisitions, or reformations, or discovery, or vigilance committees

like those that appeared in the early days of California. The laws that govern society, like the laws that govern geology and astronomy, are absolute in their operation, yet the processes of world-making and world-moving not more surely than history repeat themselves. History should be written recognizing *a priori* the fact that in human societies, as in physical phenomena, for every activity there is an agent, for every event a cause; and that in all abnormal displays of social effervescence, like that of which these volumes treat, the nearer we can arrive at causes the more profitable our studies.

In no other community in the world could have happened a succession of such convulsions ending so triumphantly for peace and good morals; in no other country in the world could there have arisen a series of such startling anomalies in whose subsidence might be found only the purest and best effects, such originality of conception united with boldness of action, and tempered with coolness, temperance, and principle. Theirs was the courage to take up authority, and the courage to lay it down. A community of Englishmen never would have moved; a community of Frenchmen never would have ceased moving short of the gulf of destruction. These vigilants were law-respecting men, in defiance of law combined to execute the laws. Good enough laws had been subverted by lawless men, with a whirl of passion and excitement that threatened anarchy and ultimate ruin. And these self-acting prosecutions and executions of the popular tribunal exhibited in flaming colors the workings of a civilized society without institutions and without precedents. Five years after the state had been nominally under the dominion of law, with annual sessions of a legislature convened for the purpose of supplying a systematic jurisprudence complete in theory and efficient in practice, crime still hung like a hideous phantom over the cities, and over the Sierra foot-hills, sprinkling even the flower-wreathed valleys

with blood. God grant deliverance from such scenes evermore. And shame eternal would ever have rested on the memory of early Californians had they not strangled the monster as they did.

For some few centuries yet the iron-bound dogmatism of ancient societies will continue to condemn the action and principles of popular tribunals. Many members of such societies will fail to see in unlawful demonstrations any good, any necessity. They will continue not only to stigmatize every government under which such things can be, but to reprobate the people suffering them. They will see in the doctrine of the governed assuming instant and arbitrary control of the government nothing but that which is subversive of order and political integrity. They will continue to call such right only the right of might, failing meanwhile to question if their own moral and legal codes rest on any other foundation. They will continue to see no difference between a mob and a committee of vigilance, between a turbulent, disorderly rabble, hot with passion, breaking the law for vile purposes, and a convention of virtuous, intelligent, and responsible citizens with coolness and deliberation arresting momentarily the operations of law for the salvation of society. They will continue to see no difference between an old-world riot aimed at tyranny or injustice and a new-world uprising for the vindication of the existing government.

But the time will come when intelligent men everywhere will acknowledge the superiority of this principle. When laws intended to regulate intemperance, gambling, prostitution, and polygamy are all annulled, and the moral ideal shall have attained a higher plane, it will then be seen that that government is most stable which is founded on rectitude and independence, which relies for its support on the will of a virtue-loving people, and not on tradition or inexorable law. It will then be seen, more clearly than

now, that all power vests in the people, whether they choose to use it or to remain bound by superstitious veneration of shadow, that even after law is made and execution provided, the executive has no power except such as is daily and hourly continued to him by the people.

Slowly human nature and social habits adapt themselves to wholesome laws, until the laws are no longer necessary, and men do right from pure love of it. The child's walking-chair, without the aid of which it could not stand alone, becomes an impediment to its progress when no longer needed. Social institutions in their structure and functions should be not only such as keep men right, but such as make them desire of their own free-will to do right. That vice should be restrained and the vicious punished may be readily admitted without setting up law as an idol, and its ministers as the high-priests of our polity.

Rude and reckless men require rigid, despotic rule; barbarous offenders must be restrained by barbarous codes; a factious, cruel element in a society can be kept under subjection, or in such order as will enable society to exist at all, only by harsh, or at least determined means; whereas a settled community of intelligent, orderly people may throw off the chains of despotism, unite charity with chastisement, make milder the laws for offenders while making stronger the prison for felons, and so relax into the enjoyment of the largest liberty. Man, the most helpless of animals, is not fitted to live alone in a state of nature. Individuals must unite for mutual protection; and being free-will animals, in order that their wills may not clash to the destruction of each other, a compact is entered into between the parts and the whole. Individuals shall yield certain of their will and freedom to society as a whole, and society in return shall protect the individual in certain essentials. Now government and legislation to be effective must be based upon the theory of soci

sequences, on the recognition of natural causations in the actions of men.

Amidst the intricate forms of social life, proper sense and proper instincts are not safe guides. That we may be endurable to our counterfeit neighbor we must ourselves become counterfeit. Our dress must cover faults and shame; our speech must be set phrases hiding half the truth; our manners must accord with set forms, and we must conceal our real selves under *convenance* and colors. This public prudery, contemptible as we may justly regard it, is an advance on public shamelessness. The secret sin that each heart hugs, fearful only lest it should show itself, is better so than shameless sin.

In the infancy of nations men believed that the rule of conduct imposed by the gods entered into all the affairs of life, so that not only were political and ecclesiastical rules ordained of heaven, but social and domestic matters likewise. Sumptuary laws regulating food and dress were no less a necessity, no less a divinity, than church or state ordinances.

All this while the intellect seems scarcely to feel its iron fetters, seems scarcely to be aware of their existence. Yet mankind are no less bound; the savage roaming the forest at will is bound; we of to-day with all our boasted liberties are bound. Civilization is only a progress from a state of unconsciousness of any law to a recognition of law everywhere.

Man when living in a state of nature must satisfy himself with the law of nature; but immediately he begins to assert dominion over nature, he must likewise assert dominion over himself. Yet artificial laws, laws of society, of mind, of morality, are not conventionally made, they are discovered by the observation of agencies at work. Science, progress, and societies act, though man should never know of it. Before precept is practice; before conventional law, morality. The organs of the body performed their functions long before their existence was known; so in social

and political affairs, principles are practised and men brought under subjection to laws long before they are aware that any such laws or principles exist. Servitude seems to be the normal condition of man. Liberty is but a form of self-servitude. Without individual subordination there can be no social organization or cohesion. Justice consists not necessarily in obedience to the laws of man, for this would make the legislator the creator of right and wrong; but, as recognized by Socrates, in force throughout all ages are unwritten laws, disobedience of which brings its own punishment. Look at man! What is he? A beast, yet more than beast; skeleton and skull, yet filled with ethereal life, spirit divine, thought mysterious! Within the narrow compass of his brain the universe lies visioned; memory holds the vast experience of the past, and hope dreams bright.

It is natural for members of staid communities to view with suspicion the social outbursts of border settlements, and to condemn the profane handling of what they have been taught to regard as sacred. But as is often the case in criticism, these censors of ours do not know what it is they condemn. Because border societies rise in self-protection against crime with which the law cannot grapple, they are denounced as factious, turbulent, and blood-thirsty. They seem to imagine that men who live in tents or huts have stone prisons in which to lodge their criminals; that prairie-ploughers, forest-clearers, trappers, gold-hunters, and the dwellers in towns of mushroom growth, situated beyond the border-line of civilization, found sitting in the wilderness awaiting them sheriffs, judges, jails, penitentiaries, industrial schools, and all the paraphernalia for catching, trying, and hanging criminals. They do not understand that the government under which these early societies hold their lands and nominally live fails to throw its protection over them, fails to meet the necessities of government, and leaves them to protect themselves or to die.

In many instances these settlements are obliged to await their natural growth like an evolution. The genesis of their government is like the genesis of government from a state of savagism. First, wandering families; then an aggregation of families; following which comes chieftainship, every man, meanwhile, looking out for himself, every family guarding its own interests, every settlement, at all times, ready to defend itself against the encroachments of crime. And yet these wise commentators, who, securely resting in their well guarded homes, attempt to establish principles of government by empirical surveys of society, ignoring the individual characters composing the body social, would have this plain, rough border-man, with the tiger at his throat, await due process of law before crushing the beast. Thus, forsooth, they may escape the name border-ruffian, banditti, lynchers, and the like. Let him who would lay down *a priori* public polities begin with man, honest man if he will, as the concrete principle of all government; examine well his condition, his necessities, then praise or blame him as he fails to embrace opportunity and achieve happiness for himself and those around him.

Most men are honest; the majority of mankind are trustworthy; as society is constituted men are obliged to trust one another. They are comparatively few for whom this huge and cumbersome machinery of government is kept in motion. Crime and injustice are the heaviest of all burdens, and in a new community their weight is often crushing. Before the criminal brings destruction upon himself every good man is taxed for his support, taxed for sheriff and jailer, for judge and hangman, to catch, confine, try, and execute him. Because of the existence of those few rogues, we must all live in fear of one another, support legislatures and courts of law, so as to prevent our stealing from and killing each other. We who have no desire to steal and kill, as well as they who have, must be watched, and by those whom we our-

selves employ; and so the whole world is kept in commotion, all on account of the sprinkle of villainy in it. The inability of civilized man to live without government costs him dearly. Unlike the savage and wild beast he may not spend his whole time in procuring food and basking in the sun, but a large number of his days must be taken from his producing, manufacturing, and commercial interests, to be bestowed upon the regulating forces of society, until government attains a conspicuousness greater than that of all industries combined. It is by evil-doers that lawyers live, that judges wax fat, and that officials, politicians, and armies suck substance from the land.

It is true that one wrong does not justify another wrong. But suppose we say that vigilance in the abstract is an unrighteous and immoral principle, which I by no means admit, was there not for our great popular tribunal some excuse, there being in reality no complete legal government? It is true that some of the officials were properly elected; many of them were not. Take the San Francisco sheriff of 1856. Which was the more unlawful act—for the Committee, with the sanction of nine tenths of the citizens, to hang Casey unlawfully; or for Scannell, who as was charged obtained his office by fraud, and was therefore no legal officer at all, to hang Graham under color of law, which he did a few days afterward? Was not Graham murdered? Were not the sheriff and his posse a mob?

Numerous other points might be brought up, showing how exceedingly weak was the law and order mind, to which the most simple and palpable absurdities never appeared.

I fully admit the risks attending a single act of disobedience, and that through the gap made by one breach of the law, many trespasses creep in. I freely acknowledge the wrong of doing evil that good may come, but I deny that the exercise of sober vigilance is disobedience, or broken law, or wrong. Whom do

these law-makers disobey when they outstrip lame law in their chase of offenders?

Some act as though men's laws built cities and made the corn to grow. The wise know that they do not; they know that of all stupidities stupid legislation is the stupidest, and that no human concoction is so weak, inept, and watery as unwise or useless law-making. Nature is despotic. Exceedingly jealous is she of her authority. Man may have dominion over certain of her minor products, but let him once enact laws and set up the show of sovereignty, and very quickly he is given a lesson in obedience. Man is not master on this planet. No matter how free he may think himself, nature has her clutch upon him. He may frame laws for his own guidance, but long before he could spell, nature had written in her book all the laws for his conduct. These laws are inexorable, changeless, eternal. If it please the people they may make memoranda for the regulation of to-day's affairs, and to-morrow tear them up and make more, but all such must be done in subordination to the higher and deeper and broader laws of nature.

And as artificial laws are powerless beside natural laws, so, as we have seen, are statutory laws inoperative when they conflict with fashion or social laws. Hence it is that the nearer our institutions conform to natural law, the more practical and permanent they are. Enactments of legislatures for the restriction or protection of commerce, such as tariffs and usury laws, as well as enactments for the restriction of freedom of will and personal liberty, such as gambling laws, total abstinence laws, and laws for the extermination of inexterminable appetites, however they may bridge an emergency, are always in the end productive of evil. "Law, law, law!" the people cry. One wants a law to prevent illicit relations between the sexes; a weazen-faced water-drinker wants a law prohibiting other people from drinking anything but water, as though laws made by the people embodied some subtile power

other than that inherent in the people. The rights of intellect, of individuality, of the moral nature—the right of man to pursue the tenor of his own way, to improve or debase himself as he pleases, I hold to be the only true groundwork of progress. This alone is liberty—freedom of thought, freedom of opinion, freedom of action; on such a basis alone can there be true conduct in life. It is the special province of law to regulate the acts of men, of morality to govern their thoughts and feelings.

In a republican government laws are merely a compact entered into by a majority of the people for the governance of the whole. This agreement is to last until circumstances render it necessary for certain forms or parts of the system to be changed. In order to avoid confusion in altering these prescribed regulations of society, the original compact or constitution should contain a provision designating the manner in which changes should be made. Thus it is clearly evident that a republican government is nothing more than a copartnership which may be altered or annulled at any time by a majority of the respective parties to it. Although I am by no means a secessionist in the Americanized meaning of the term, although heartily in favor of the abolition of slavery, and of sustaining the union of these United States by force of arms if necessary, on the ground that the federal alliance was made for life, and not subject to divorce, yet there are undoubtedly circumstances in which a state may be placed where it will have the right to secede, where it will secede, whether it has the right or not, if it can.

Nations, like individuals, are born and die; have their stages of childhood, maturity, and old age; have their minor disorders and chronic complaints incident to their growth and decay. And though like plants and everything of earth, throughout all this coming and going the race improves; and though by the accumu-

lation of experiences, the subordination of matter to mind is constantly increasing, yet we appear to be no further from death, nor are we able to exercise any more power over ultimate decay now than in the days of Adam.

True, we think it impossible that our institutions should ever fail, that our country should ever fade, just as all men think all men mortal but themselves. Yet the time will surely come when old England shall be tucked away among the tombs, and young America shall become first old England and then dead Rome.

The lesson of self-help so early learned by the people of California fixed in their minds the sentiment of supremacy. They were freemen in the broadest sense. Their rights they might delegate, but never barter; and if at any time the officer of the public should prove unworthy of his trust, they who had clothed him in power might strip him of it. The servant of the people whose deeds reflect not the will of the people, is already void of power, and officer only in name; a spring ballot-box and fraudulent returns may lift him to his seat, but they cannot make him ruler. There is no earthly or human source of power other than that which emanates from the people; no other divine right to rule than the divine right of self-government properly delegated. All questions of legal or popular right are relative, and not absolute. Different conditions of human society call for different institutions, and will and should have them. Like water seeking its level, government ever seeks to fall into the hands of the strongest power. This power is not made by the laws, but the laws are made by the power. To do away with change, and live forever under fixed conditions, you must first do away with human progress, for progress is change, and without the power of change there can be no improvement.

The object of every just government is to protect the

good, and to punish crime; if criminals fraudulently seize the reins of government, must good citizens, out of respect to law, stand silently by and see themselves disgraced and their country ruined? Thus was the right to revolutionize early and thoroughly recognized. A moral revolution, tempered with strict justice to every individual, was preferable to civil war, but either was better than the enslavement of virtue to vice.

The term law implies a line of action prescribed by some superior person or power, and laid upon an inferior. No human power is superior to that of the free citizen of an independent state, except it be all the citizens of a free state acting together. Laws should be so made and enforced as not only to fulfil their purpose in the preservation of social order, but both their form and functions should be of such a nature as that the unit of the society should of his own accord live up to their requirements.

It is the duty of a government to enforce the right and restrain the wrong; and when the sovereign power fails in this it is no sovereign power, but is subordinate to the power which overrides it; and consequently it is not the government. The hand which guides the machinery is not the power that moves it. The strength of a government is not in proportion to the number of its laws. The real power lies in the hidden forces behind law, and not in visible proximate forms. Political machinery without the vitalizing power of an intelligent people is like a steam-engine without steam. Laws and government are but the machinery of society for carrying out this contract, and judges and rulers are but the engineers to tend the machinery.

Government is but the representation of the united will and supreme power of the people; individual will and power being merged into the combined whole. A law to be binding must be self-imposed and autonomous. As one man is not responsible to another man for opinions and actions affecting only himself, so one

government cannot be held responsible to another government for its internal regulations. It is no less the duty of government to protect individual will from the wrongful control of other wills than it is to subserve all wills to its own. As government claims the right of inquiry into the relations of citizens, so citizens may claim the right of changing, remodelling, overturning, and revolutionizing government. If they have the power, it is their prerogative and divine right to use it as they please. It is thus that God and nature display power. Man has no political or individual master on earth. The primary functions of government and law consist in expressing and executing the sovereign will of the people. Laws are not self-creative nor self-acting; they are made by human agency, and by human agency may be controlled and changed. Are men made for laws, or are laws made for men, that they should not dare to rise above the work of their own creation when it fails to fulfil its purpose? Here was a blow struck purely in self-defence. It was a battle between the good and the bad, fought on a new line, without ring-rules or umpire.

I have said elsewhere that the *morale* of the matter turns on the right of revolution. Yet the question as to the right of a people to revolutionize, the right of British subjects to demand the magna charta, the right of the American states to declare independence was scarcely ever brought forward in connection with popular tribunals on the Pacific coast. There was here no war on existing laws or government. The law-makers, the guardians of public morals, that is to say the sovereign people, through their own culpable neglect it may be, saw good laws put to bad purposes, saw vicious judges warp law in the construction, the ends of justice perverted, and criminals escape by hundreds. If a majority of citizens have the right to rebel against unjust laws, to rise up and overthrow an unjust government—and this right will hardly be

denied by any progressive people of to-day—surely they have the right to demand that their own laws shall be faithfully executed by their chosen instruments. The men in office, however, were not the chosen servants of the people; they were, for the most part, scoundrels who had fraudulently stuffed themselves into office through spring ballot-boxes; and there was virtually no such thing as justice in the courts. The men of the time were not of the temper to rest quietly wrapped in a fold of red tape, and see their fellow-workers shot down in the streets and robbed of what they had come so far and toiled so hard to obtain; they were not of the stuff that haggles over empty traditions. They cared little for names. "The people of San Francisco have been called a mob," said General Wilson, while presiding over a mass-meeting assembled in Portsmouth square the 5th of June 1850, for the purpose of calling to a sense of duty the common council who had just voted themselves each a salary of five hundred dollars a month. "If they do call us a mob, what do we care? As for myself I shall be happy to preside over such mobs at any time." They cared little for so-called right ways or things sacred. Right ways were to them straight and simple ways that led to no wrong ends, and sacred things were things worthy of adoration, and not filthy political puddles or otherwise legalized pollutions.

Constituted authority is deposed by an unconstituted authority, which takes cognizance of offences which the law fails properly to punish, in a manner not laid down in the criminal code. What then? At best or at worst it is but a fresh demonstration of will, called forth by strange emergencies, by that power which created law and constitution, and set its servants on judicial benches to do its bidding—according to law if it so wills, or according to expediency if it so dictates.

The London *Times* thought that "an organized association, powerful enough to supersede the law of

the land in open day, could have no possible difficulty in amending the administration of this law, had they directed their efforts to such purpose instead of dispensing with law altogether." But this writer, like most of those who have condemned the action of the people in organizing committees of vigilance, either was not in possession of the facts, or had given the subject no thought. To overturn and reconstruct the machinery of law would have been to carry the evil, if evil it was, much further than the people wished to do or did. Was it better to hang the judges and ballot-box stuffers and elect new officers, or to hang the rogues the law would not punish, help the authorities, intimidate wicked office-holders, and teach them their duty? The circumstances were most peculiar. There was no time for speculation. This society was the product of no soil or climate; it had not had the benefit of centuries in which to grow and ripen its fruit; it sprang up in a day, and was likely to be swept away in a day. The New York *Tribune*, commenting on the affairs of 1851, remarks: "San Francisco, therefore, presents the singular spectacle of a community governed by two powers, each of which is distinct and separate from the other. They cannot come in conflict, since there is no aggressive movement against the law on the part of the Committee, and no attempt on the part of the regular authorities to interfere with the action of the latter. Public opinion universally upholds the course pursued by the Committee. This course, under the circumstances, cannot be called mob-law, or lynch-law, in the common acceptation of the term. It more nearly resembles the martial law which prevails during a state of siege. It has been suggested by the presence of a danger which the ordinary course of law seemed inadequate to meet. Life and property must be protected at all hazards; and nothing but the most prompt and relentless justice will give us security. These are probably the sentiments of nine tenths of the people of California."

"We condemn as sternly as any," writes the editor of a Richmond, Virginia, paper, "everything in the shape of disrespect for law, but if the law utterly fails of its object of protection; if murder, arson, burglary, theft, and every other crime are committed in any society with impunity, we consider it a mawkish and criminal sensibility which objects to the better part of the community resorting to the higher law of force."

"Truly this is a terrible state of things, and greatly to be deplored," comments the New York *Herald*, "but the people of California, it appears, not only have reasonable excuses for these summary and indiscriminate executions, but their situation is such as imperatively to demand them."

Nothing could have more plainly evidenced the moral feeling that animated the better class of citizens than the Vigilance Committee movement. It spoke in the loudest tones their abhorrence of the past and their determination for the future. It afforded the best guaranty that thenceforth California should rival the oldest and most upright states of the world in social order and good government; and that promise has been faithfully carried out. The forms of a society derive their character from the factors of the society: governmental organizations are determined by individual attributes. Low organisms mark low development; high social development can only come from high social structure. California's age of gold, like the early age of every nation, was eminently a fighting age. Nevertheless one good result arose from it. Many bad men were killed by other bad men, and these were hanged by good men. So, many a little society was physicked of its pain. The Circean slumber into which the venom of selfishness had cast the community was broken, and never again should ultra-moralists have the opportunity to proclaim the reigning evils in such hideous light.

As a matter of course all criminals were strong

law and order men. "Only give us a trial," said they, "it is all we ask," meaning thereby a trial in the courts, with one of their colleagues as judge, another as sheriff, and the jury-box well filled with sympathizing friends. It was by such as these at home, and by many abroad who knew little of the necessity for or the character of the revolution, that the doings of the San Franciscans were denounced as disgraceful, and in the eyes of some a stigma attaches to the state to this day in consequence.

I claim for this uprising a phase of social phenomena in its magnitude and purity not visible elsewhere in the highways of history. Mobs there have been many, and insurrections, revolutions, and civil wars. But where shall we find a people, satisfied with the law, loyal to their government, proud of their political principles and institutions, lawlessly rallying to the assistance of law? Every progressive country has its bursts of lawlessness, tending to greater liberty. But here we had liberty enough; indeed, too much, for it was fast degenerating into licentiousness. Had we been dissatisfied with our law, there was an easy remedy in the regular course of legislation. Insurrection would have been the last method thought of. The more free the people, often the more patient they are under grievances; bind them and they will burst their cords at any cost.

"Insurrections are generally wrong," says Buckle, "revolutions are always right. An insurrection is too often the mad and passionate effort of ignorant persons, who are impatient under some immediate injury, and never stop to investigate its remote and general causes. But a revolution, when it is the work of the nation itself, is a splendid and imposing spectacle, because to the moral quality of indignation, produced by the presence of evil, it adds the intellectual qualities of foresight and combination; and uniting in the same act some of the highest properties of our nature, it achieves a double purpose, not only punishing the op-

pressor but also relieving the oppressed." But the vigilance organization was as far from insurrection as from revolution, and further from mobocracy than from either. It embodied all the high moral purposes of revolution with none of the evils attending insurrection. It was based upon the highest and holiest principles incident to associated humanity—the sacrifice of self for public good; the sinking of self in a righteous cause; the lifting up of right and virtue, and the casting down of wrong and vice. In nothing did the spirit of self-management display itself in a more marked degree than in the organization of citizens' conclaves for the prevention of crime. Out of the necessities of society sprang a system *sui generis*, and developed into an institution which, however regarded in principle by conservative form-worshippers, was the savior of the commonwealth. In theory it was unique; in principle it was the essence of good government, the springing into action of the sovereign will of the people; in practice it was pointed, swift, and successful. With magnificent audacity a handful of men, in close assembly, backed by the better part of the community, in the name of law rise superior to law, overturn it, place it beneath their feet, and assume authority absolute, temporarily, for the purpose of vindicating the majesty of law outraged. And their end achieved they voluntarily lay down their power which offers no recoil, and return in peace to their private station, carrying with them the gratitude of every good citizen. The Draconian code was scarcely more severe, but the San Franciscans were far more prompt in the execution of their sentences than were the Athenians.

As I have said, the aim and spirit of the higher popular tribunal is to execute the law rather than to overthrow it. Where law was properly administered there never yet has been a popular trial or execution in California. Rarely in their improvised tribunals was a criminal punished until after a fair trial,

conducted as nearly as possible according to court forms, although the deed may have been committed under the eyes of the whole town. Usually there were twelve jurors, who must bring in an unanimous verdict; the prisoner might select his counsel and summon his witnesses. He was always humanely treated; I never heard of an instance where a prisoner was struck, or allowed to be insulted, and every reasonable request was granted. Not unfrequently, after the whipping of some petty thief, the sympathies of the large-hearted miners would be so excited for the miserable wretch, that they would make up for him a purse on the spot to help him away. The vigilance committees frequently paid the fares of their expatriated by steamers and sailing-vessels. There was none of the appearance of revenge about it, but if the deed was done, and men saw it, the doer might rest assured of such swift and severe punishment as it justly deserved. This is all the people of California aimed at when they took the scales of justice from the hands of bungling and atrocious judges, and assumed the administration of law where there was none; furthermore, this is all they ever did, and for this who shall blame them?

Therefore, after an earnest and, I believe, an unbiassed study of the subject, with as much willingness at the outset to condemn as to praise, with the secret workings of the institution, the motives which actuated the leading spirits of the San Francisco Vigilance Committee as communicated to me in person, their purity of intent and action, the high moral responsibility which they felt resting upon them, and the conscientious care taken that impartial and passionless judgment should crown all their acts—with these, as well as the existing necessities, the outer workings of the system, and its successful results, all before me, it is clear to my mind that not only was the movement justifiable, the principle a wise and

righteous one, but that it was the only thing under the circumstances that could have saved society; and that the noble men who staked their honor, their lives, and their property on the honest earnestness of their endeavor for the welfare of the community, are deserving the immortal gratitude of posterity. Like the senators Cineas found at Rome, they were an assembly of kings, above law, who dealt out justice fresh and evenly balanced as from the hand of the eternal.

These are the lessons; and further, free enlightened and progressive peoples will not always submit to ancient superstitions, howsoever imposing the idea, or howsoever dear the names by which they have been accustomed to hear them called.

They will have justice done. Coleman said it when he told the governor, "We are tired of having our citizens shot down in the streets." When will blind, bigoted law learn the lesson, and instead of crying so loudly with hands uplifted in holy horror go to work and do its duty? Cannot lawyers and judges see that the people do not want to meddle in these matters, as they call it? But through the laxity of our judicial and jury systems, and the laziness and indifference of hired public servants, the people are obliged, every now and then, to leave their business and do what sheriffs and judges are employed by them to do, and fail in accomplishing. Where justice is strictly administered the legal fraternity need have no fear of interference on the part of the people. In all the uprisings in California there has never been manifested any particular *penchant* on the part of the people for catching and hanging criminals. They do not like it. Naturally the law detests vigilance, because vigilance is a standing reproach to law. Let the law look to it and do its duty.

The members of the legal profession should seek by every means in their power to reform whatsoever there is of evil in their practice, and to renovate courts of law, and make them indeed temples of justice.

Most profitably might law step from its high pedestal and learn these lessons from vigilance. As has often and truly been said, in proportion as punishment is sure crime is made afraid. With the intricacies of law to aid him the ignorant criminal fears law less than the mob. Uncertainty takes from the penalty its horror; likewise delay, solemn deliberations, and court parade rob punishment of its wholesome vividness. All this, even where law is justly administered, leads the criminal to overestimate the chances of escape afforded by law; whereas the hard commonsense of arbitrary measures only executes the verdict of conscience.

Short and swift is the honest road to simple justice, but few there be in the legal fraternity who find it. The law maxims of the miner were brief, and easily understood. Equity and execution. The thief and murderer should die. There is no question that in many cases court organizations and statutory codes retard rather than accelerate the administration of justice. California never required an extraordinarily strong government. A firm, steady rule, such as obtained in other well regulated states, was all that was necessary. Gladly did the people everywhere welcome the magistrate with all his legal appointments; but when they saw that conviction under legislative enactments was next to impossible, they felt obliged to fall back upon their own more caustic code, which they rightly regarded as the *os sacrum* of their civil polity.

The study and observance of the law should ever command our highest attention; for it is law, as Cicero says, which regulates the interests of the human race. Therefore love, honor, and respect the laws, if so be they are worthy; but do not tremble or bow down before them. Yet centuries of sophistry to the contrary notwithstanding, I can but regard the lawyer who endeavors to clear his client, knowing him to be criminal, as an accessary after the fact. The ancient

arguments on this subject have no weight with me, and only show the imperfections of our judicial system. The court is the place to try causes, we are told. It is not the duty of the defendant's attorney to usurp the place of judge. The accused being incompetent to act for himself, his attorney may rightfully do for him whatsoever he can do if he has the knowledge. If attorneys were at liberty to undertake no cases except those known to be just, many just cases would lack counsel, and so on. After all this, and much more, there still remains the bald ungainly fact that an officer of the court, a lawyer, in the name of justice, in a court of justice, may righteously employ every art and subterfuge to unchain upon society a murderer, knowing him to be such, when for another, not a professed justice-monger, to assist the criminal's escape brings upon himself the charge of felony. Of just or doubtful cases I have nothing to say; it is only when guilt is certain. But how are we to know if the accused be certainly guilty until he is tried? Sometimes we may know it; generally we may know it before the case has proceeded far; and it speaks poorly for the legal fraternity that after these several thousand years of litigation no better system of attaining justice has been devised. Law-makers, governors, and all holders of office by sufferance of the people should be made to take heed how they tamper with their trust. Dereliction of duty in an office-holder should be constituted the highest crime in the commonwealth.

These are truths our legislators should by this time know, if teaching were of any avail. They should know that few laws are better than many. "Corruptissima republica plurimæ leges," Tacitus said; when the state is most corrupt the laws are most numerous. They should know that mild but certain punishment is more effectual to restrain the vicious than severe laws imperfectly executed. Therefore

judges who fail to punish should themselves be punished. The annual executions in England have been reduced since the reign of Henry VIII. from two thousand to one hundred and twenty. The character of the citizen is weakened by too stringent laws; likewise among independent and intelligent people severe and unjust laws are certain to be disregarded. They should know that this universe, from the great creator, or primary force, to the least and weakest of created things, is set up on the basis that might is right; that this order of injustice does not satisfy fair-minded and progressive men, who would improve upon nature and brute force, and not hold to ancient iniquitous maxims.

I have said before, and I repeat it, that for such a state of things as renders necessary popular tribunals the people have only themselves to thank. This, in the present instance, all good citizens who gave the subject candid thought were ever ready to admit. Abstaining from the privileges and duties of freemen, keeping aloof from politics and the polls, permitting the administrators of the government to fall a prey to the arts of base and designing men, were the chief causes that led to political corruption and social disease.

In California more than elsewhere in our confederation were these evils engendered. Two causes, each abetting the other, intensified the mischief. Society for several years following the gold discovery was in an abnormal state. A double attraction brought to our shores two elements, each of which for a time contended for the mastery. The gold-fields offered allurements alike to honest industry and to ruffianly rule. Hither came the virtuous with good intentions, bent on securing a competency, and then returning to their homes to enjoy it. Hither came likewise the vicious, with wicked intent, to prey upon society, and wallow in their rank corruption. Although the good

element preponderated, it lay dormant, while iniquity festered and grew virulent. While the workers were busy reaping their harvest, knavish drones usurped the government and sucked the sweets of office. Growing bolder they marshalled immorality in public places, and added to their obduracy brutal crimes. Then it was, when profligacy and criminality became unendurable, the people, that is to say the purer element of society, awoke to a realization of their dangerous position, and rising in their sovereign majesty, they put in exercise their inherent right, and crushed the monster crime.

It is easy to see, however, that all this evil originated in a neglect of duty. He who will not bestir himself to plant and reap deserves to starve. He who neglects to cultivate the mind, after the body is fed and clothed, deserves to be scourged with ignorance and all its concomitant credulities and bigotries. He who will not guard his inherited liberties deserves to die a slave. Now what is to be done? First eschew money-getting as the great and ultimate good. Let us have a nobler aristocracy than that of wealth. Let us learn to distinguish between liberty and libertinism, between democracy and demagogy. Let us cleanse our republican institutions of their rottenness, or else set up an oligarchy that shall govern us. Without paradox, and notwithstanding all I have said in defence of the attitude assumed by the noble men who composed the San Francisco executive committee of vigilance, I can say sincerely, give me despotism, the despotism of Russia even, before mobocracy, and every member of the executive committee would say to that, amen. Because we are faithless to our privileges and our trusts, as rapidly as may be this matchless government of ours, matchless for the regulation of the affairs of intelligent freemen, is tending toward mobocracy, toward demagogy; not a vigilance committee species of mobocracy, whereby intelligent, American-born citizens rise in their sovereignty and organize for the purpose of

cleansing themselves of their moral pollution. By no means. It is a demagogy composed of low, illiterate, and unprincipled foreigners, the scum of aristocratic governments, in the management of which they had no more voice than the fly in the turning of the wagon-wheel, and deserved no more. Our free and easy institutions admit this element unlimited entrance, admit it in a few short years to all or nearly all the privileges and dignities of the descendants of native citizens. On the one side we legislate against admitting the heathen Asiatic to do our scrubbing; on the other we open our doors for the refuse of Europe to come in and govern us.

Therefore it behooves the people, if they would serve God, their country, and themselves, if they would elevate the standard of personal and political morality and save their children much trouble, to be instant in their duty as citizens of the commonwealth. No government can long be respectable while its most respectable members do little else than denounce politics as everything that is vile. If indeed the public service is so filthy that clean hands cannot handle it, good men should set themselves at once about cleansing it, else they are not good men.

Obviously it was necessary that much of the work of the Vigilance Committee should be done in secret, yet it was not a secret organization, in the ordinary acceptation of the term. Associations in which demagogism panders to brutal instincts, and passion usurps the place of reason, are oppugnant to our institutions and to the age in which we live. Labor leagues, anti-Chinese associations, orders of Caucasians, and the like, having their origin in low ambition and their action in class oppression, cannot be too greatly reprehended; and none but the wilfully blind or perverse will see in such combinations of evil influences principles like those entertained by the best citizens, who, without personal ambition or private advantage, associate for the purpose of stifling a social

monster threatening social destruction. The evils inseparable from secret associations must not therefore be laid at the door of committees of vigilance, which are never intended as a permanent power, but as a desperate remedy for otherwise insurmountable wrong. Nor are they necessarily secret; the only secrecy employed is that of ordinary discretion in their deliberations upon the accomplishment of difficult and dangerous necessity. Aside from this their acts are open as the day.

The general welfare of society can never be properly directed by secret associations. From the very nature of the case a reformatory measure to be effectual must carry with it the sanction of the majority, to obtain which its discussions and actions must be open and public. I am not speaking of beneficiary societies finding pleasure or profit in signs, passwords, and degrees, nor of economic associations, but of secret, revolutionary, and political combinations for the accomplishment of purposes in which all have an interest, in which all should have a voice. Such is not the principle of vigilance, which though babbling little of its intentions, in the end throws open all the secret workings of its beneficent reform.

Cicero affirms that one of the chief causes of the fall of the Roman republic was that their voting was secret. Votes should always be given openly and fairly, notwithstanding what Montesquieu says of it, that "lorsque dans une aristocratie le corps des nobles donne les suffrages, ou dans une démocratie le sénat, comme il n'est la question que de prévenir les brigues, les suffrages ne sauraient être trop secrets."

In the grand tribunal of 1856 the chivalry party was a compact force wielded by leaders capable, bold, and unscrupulous. These men believed in aristocracy with themselves upon the surface. They believed in labor, when others performed it; in freedom, when they enjoyed it; in republican government, when they

held the reins. Though the followers of this party were not comparatively many, they were earnest and obedient. Its managers had control of the principal official positions of the state, and they saw at once that their power was in peril. Their rule had been attended by disorder, corruption, and fraud; the triumph of vigilance would give its leaders an influence over public opinion, and this they took for granted would be employed to their overthrow.

We have seen how they endeavored by skilfully prepared newspaper articles to commit the vigilance movement, for which these writers professed ardent admiration, to a secession policy, a policy which should divide not only the north and south but the east and west of the American union. Failing in this they attempted to sow dissension within the ranks of vigilance, and finally to crush the institution by main force.

It was wonderful to see men who, during the long fruitless struggle by patriotic citizens to emancipate the community from the tyranny of those influences which evaded or defied all law, had continued indifferent or lukewarm to its violation, skilfully gathering and banding all who from any motive, from any principle or prejudice opposed the Vigilance Committee, officials fearful of loss of present opportunities uniting with old corruptionists dreading investigation—it was wonderful. I say, to see those so lately indifferent suddenly eager to ally themselves with the worst classes in deadly hatred of the body which was then alone sustaining the spirit of the laws.

There is one most significant fact before mentioned, and which should never be lost sight of, the anxious desire of the Committee to surrender their power and disband their forces. The records show that as early as June 1856, after it had been only about one month in existence, a special sub-committee was charged with the duty of making preparations for a final parade, and disbanding on the coming 4th of July. Con-

trary to the predictions of their enemies and the experience of other communities, these men did not fall in love with and cling tenaciously to the power they wielded. Neither did they extend their control, as they were urged to do, to other parts of the state, although such a course would have gratified personal ambition and have secured greater personal and pecuniary safety. But for Johnson, Terry, and the chivalric and pro-slavery associates the history of this Committee could have all been contained within the compass of a half-dozen chapters.

The student of politics would do well to compare the excesses committed by so many communities suddenly liberated from the control of personal government, with the prudent course pursued by the eight thousand citizens of San Francisco, who, seeing the commonwealth rushing headlong over the precipice of political iniquity, seized the reins of power on the instant, held them with a firm conservative hand for several months, controlling a city of magnitude and wealth, controlling, above all, themselves, and restricting their acts to the simple purposes which had banded them.

Finally, in the varied experience attending human development, should this or other communities find it necessary with their own hand to helm the ship of state through an emergency, such would do well to study the wisdom, the purity, and the devotion exercised by the San Francisco Committee of Vigilance as presented in these pages.

"What has become of your Vigilance Committee?" asked a stranger of a citizen of San Francisco as late as 1859.

"Toll the bell, sir, and you will see," was the reply.

CHAPTER XL.

THE LABOR AGITATION OF 1877–8

But when to mischief mortals bend their will,
How soon they find fit instruments of ill.

Pope.

ONCE more the spirit of vigilance was aroused by the labor agitation of 1877–8. Then for the first time in California arose a conflict between capital and labor. The contraction of values throughout the United States, which were greatly inflated during the war for the union, continuing through a series of years caused corresponding contraction in expenditures. Enterprise languished. Manufactories were closed, and thousands of operatives thrown out of employment. Reductions of wages on railways and elsewhere were followed by strikes and riots. As there were comparatively few railways and manufactories on the Pacific coast, there was in reality no great hardship experienced here, no real cause for complaint. Work was not as abundant or as profitable as formerly, but there was little suffering in consequence. But there was here, as elsewhere, a bad element, ready to break out on the slightest pretext, and the pretext in this instance was the presence of the Chinese, without which excuse the agitators would indeed have been hard pinched for an excuse.

The cry was raised that the rich were becoming richer and the poor poorer. Not that there is actual antagonism between capital and labor, while the distance between them is natural and equitable. Capital is as necessary to labor as labor is to capital; and so

long as the rich are content to be richer and the poor to be poorer, there is no conflict until wages are insufficient to provide food, and then an uprising is sure to follow, provided the poor have strength to rise. And so was heard on the historic sand-lot of San Francisco the old cry, raised in the time of Job, and echoing down the centuries, What profit hath a man of all his labor under the sun?

This gradual widening of distance between rich and poor is fraught with no little danger to the commonwealth. Yet upon neither of these extremes can the country depend in time of danger. Between plutocracy and mobocracy is a strong conservative element, consisting of the mercantile and industrial classes, men of moderate means, slow of wrath, but terrible when aroused, of which are made vigilance committees and associations for the preservation of life, property, and country. It is well for both capital and labor to have a care of the American people, for this country is neither Mexico, Ireland, nor Russia. On the other hand, it is well for the American people clearly to distinguish between unjust and iniquitous monopoly and capital fairly and legitimately employed.

To attempt by law to regulate the price of labor or of food is injudicious in the extreme; but it is still worse for the people in their sovereign capacity to resort to irregular means for the accomplishment of their wishes in this direction. Such efforts always operate against the poor, and bring upon them in an intensified degree the very evils which they seek to escape. Cheap food and well-rewarded labor are grand things for a community, provided prices are natural, healthy, and remunerative to all concerned. But if food is forced by any means below the cost of production, then planting is diminished and scarcity follows; and the moment the force is removed, prices advance higher than ever. So it is with labor. Striking for higher wages, or a less number of hours — which is the same thing — attempts to force the manu-

facturer to pay higher wages than he finds profitable, closes his works, and leaves the artisan in idleness. This is the history of a thousand attempts already made, and thousands yet to be made—for strikes and blind stupidity are not to be eradicated at a stroke. And we may rest assured that for some time yet, and until human nature is somewhat changed, capital will continue to take advantage of the necessities of labor, and labor of the necessities of capital, each as it has the opportunity and the power.

Now as regards labor and wages. The argument of many is based upon the doctrine that labor is a curse, cheap labor degrading. Unquestionably, high wages are better for the laboring man than low wages; just as high interest on money is better for the capitalist than low interest. High wages and high interest are significant of the material prosperity of a community; and material prosperity, especially in new countries, where society is forming and the foundations of prosperity are being laid, is desirable. Where food is cheap, with high wages the laboring man can better provide for himself and family, with something to spare for recreation and culture. It is better for all concerned that labor should be well paid; the well-being of society is enhanced thereby. But we must not forget that high and low wages are relative terms. The price of labor cannot always be measured arbitrarily by money; labor is high or low according as it stands with regard to the price of food and rents. Ten dollars a day for carpenters in California in 1850, considering the cost of living, was not higher wages than five dollars a day in 1860. Further than this, we should not forget that the price of labor can no more be regulated by legislation or leagues than the rain supply. What would we think of a body of men assembled as law-makers, or as reformers, arbitrarily declaring in 1850 that carpenters should work for five dollars a day, and in 1860 that they should receive ten dollars? Wages cannot be regulated by rule, any

more than can the tides; they are governed by the inexorable law of supply and demand.

A well-organized society demands a subdivision of labor and a subdivision of power. Money, mind, and muscle are all power. In return for his labor, the workman receives a secured share of the gains for which the employer has ventured his means, energy, and skill. On these gains depend the wages of the laborer; and it is therefore to his interest that capital should be secure, for capital promotes labor, while labor increases capital. How absurd is the fallacy for men dependent on capital to wage war thereon, as if by dissipating or degrading it they would elevate themselves and better their condition! Talk of the cold-blooded selfishness of capital; what can be more inhuman and heartless than the policy of trades unions and labor societies, which by exclusion, combinations, and restrictions drive those poorer than themselves from all desirable employment, and force them to live on the ragged edge of debasing servitude?

Labor strikes are not as a rule successful; for even when capital succumbs, the direct and indirect cost of the strike counterbalances the results of the victory. It is an axiom of political economy, as well as of the moral law of freedom, that no artificial regulation of prices and wages is politic, right, or effective, although capital may for a time yield to the immediate expedient. The continued migration, aided by ready means of communication, and the rapid growth of population in a prosperous country, tend to lower wages. It is unreasonable to expect employers to pay two dollars for what is offered at one, while the working classes persist above all others in seeking the cheapest market. They cannot do it, for competition, prompted by the pressure of labor itself, does not enable them to receive or pay more than the market value. Too often the laboring man, unable to see far beyond his nose, places his welfare in the hands of some designing demagogue, who raises himself by

casting others down. What said the laboring man when steam came to do his work? Despite the well-proved fact that the use of machinery results ultimately to the advantage of the poor in particular, by cheapening the necessaries of life and making luxuries more accessible, it is not easy to persuade the few to undergo a brief privation for the general good. Even the United States is not free from the short-sighted hatred of labor-saving machines. In June 1877, the farmers of Ohio received threatening communications, forbidding them to procure such machinery, particularly self-binding reapers, under pain of having their grain and implements destroyed.

The assertion that unequal distribution of wealth forms the essential weakness of a nation is not altogether borne out by facts; for the English are to-day most flourishing and mightier than ever, and yet the existence side by side of extreme poverty and wealth is more marked among them than elsewhere in Europe. The advance of civilization does not appear to diminish the concentration of wealth. No country can claim a more generally disseminated culture than the United States; yet the mass of property lodged in a few hands is immense. Like seeks like, and capital associates to carry on vast undertakings, as railroads, canals, telegraph lines, banks. The feature of association grows stronger with advancing culture, and becomes powerful enough even to counteract the law of supply and demand, since combination defeats competition. Isolation breaks down, and men combine into firms, societies, and corporations. Awakening from the stupor in which feudal and hierarchic domination had so long kept them, the masses have become alive to the importance of combining their power and means, and the result has been the formation of benevolent societies, trades unions, and building associations, which all aim at the debarment of poverty, the accumulation of wealth, and the protection of labor against the encroachments of capital.

Trades unions in America have not met with the success hoped for, because the need of such associations not having as yet become generally felt, no very effective combinations have been made. The most flourishing has on its roll less than one third of the members employed in its trade. One of their chief aims is the reduction of working hours so as to accord, as the favorite expression has it, with the rules of Alfred the Great, who divided the day into three equal parts, for work, recreation, and sleep. In England many unions have enforced nine working hours per day, and in Australia, eight hours; but in America the ten-hour system is the rule, for the eight-hour regulation by the government is not well observed by contractors. The laboring man has the right to refuse to work more than eight hours a day, or four, or two hours; but is it not folly to imagine that a manufacturer can afford to pay as much for five hours' work as for ten?

An important feature of association is the coöperative societies, which seek to displace the wage system, secure more direct dealings between producers and consumers, save the profits given to middle-men, and effect a more equal distribution of wealth. By the establishment of coöperative stores the consumer is the gainer, and by the establishment of coöperative factories, the producer; the workingman gains not only the profits which passed to the employer, but independence. The growth of this system is naturally slow, owing to the difficulties encountered among a large number of partners, with small means; but as this union of capital and labor is the very essence of prosperity—the main impulse to general advancement—it merits the support of the citizen. The course of progress has been to the gradual elevation of the lower classes and the equalization of society; and bringing together producers and consumers tends toward this happy consummation.

In politics, also, the lower classes have been admitted to a larger share, but the equalization has not been on

the same scale in all countries; and, conscious of their growing power, the working classes have become impatient under the yoke where it presses too hard. Under the influence of undigested speculation, built on the theoretic Utopias which have been planned by Plato, More, and other philosophers, agitators have risen among the working classes, and proposed reforms in the social order in a more or less revolutionary manner. The origin of these movements, carried on by communists, socialists, nihilists, and internationalists, is to be found in those countries where an aristocracy of title and wealth has combined to keep the classes below them from rising out of their dependent condition. Toil is there too exacting, and wages too low, to enable the workers to readily assume a firm stand against oppression, for this requires some means and leisure. Luxuries are out of the question; and when comparing their life with that of the rich, it is no wonder that they complain, listen to incendiary expressions, and become reckless. They have nothing to lose by a change, but everything to gain. Communism is not repulsive in its main features. Christ advocated it, as reformers have done before and since; but society was not ripe for the change, and is not yet. Extreme communism is impossible, however; and yet it crops out whenever business depression creates more than usual distress. It is then that the contrast between poverty and wealth becomes more glaring, and causes a natural pang of envy. The possession of genius creates the same admiration and longing in the minds of the less gifted, yet they cannot be so endowed. Genius and energy will acquire the distinction and wealth which stulted minds and indolence cannot obtain. For the latter to claim an equal share with the former is unjust; to accord it would be to banish effort, check progress, and return to barbarism. Yet even the savage acknowledges the right of acquisition.

In the United States, where prosperity is more

general, chances more equal in the struggle for wealth and honors, and openings in life more plentiful than in Europe, the premium for energy and skill is larger, and communism has small prospects of obtaining a footing. Nevertheless, the love of luxury and ostentation has spread rapidly among the prosperous, and is widening the gap between the classes. The greed of capitalists and politicians has sought to grasp all means for the furtherance of these vices, and has immersed public institutions in a pool of corruption. The consequence is a wide-spread discontent, which has at times assumed an alarming expression. But some of our journalists have been too prone to attribute every labor excitement to communism. An organization of this class in Chicago, numbering less than 100 members, was magnified into colossal proportions. The outcry against them caused the *New York Tribune* to investigate the matter. Some of its reporters joined the commune, and found that the New York sections embraced less than 800 members, and the six Brooklyn sections 500. Thus, in the very hot-bed of American communism, not over 1,300 adherents were found, of whom nearly 1,000 were Germans, 100 Americans, and the rest chiefly Frenchmen.

The business stagnancy of which workingmen complained was caused by the over-production into which manufacturers were led by the excitement of a previous industrial impulse, and by competition. The market was overwhelmed, and a reaction took place, which obliged them to retrench. Under the consequent pressure of distress, the laboring class became more observant of the social and political evils around them. In California there were special reasons for discontent in the cheap competition of Chinese labor, which reduced the chances and earnings of workingmen, while it strengthened the power and added to the wealth of capitalists. A further cause for complain' was the enormous monopolization of land by a fe

men, who, by refusing to utilize it or distribute it at fair prices, kept back from the masses a legitimate opening for work and prosperity. The healthy desire for country life was not, perhaps, so strong as might be wished, owing to the nervous strife for speedy enrichment, and the growing attractions of city life. Another reason was to be found in the want of accommodation on farms for hired men, who were not treated with the same consideration as in New England. The detestation of country life was shared by the tramp, who neglected the advantages of a genial climate and farm hospitality in order to idle in the towns. In San Francisco the mania for stock-gambling created much distress, by breaking up the homes of thousands, and dissipating the savings of years, all to add to the wealth of capitalists who themselves had held out the deceptive bait.

That real destitution existed is undoubted, although not in such severity as in the older states. In 1876 the San Francisco Benevolent Association disbursed $19,000 for the relief of over 7,000 persons, whose monthly average varied from 540 in May to 660 in December. In May 1877 over 1,000 were relieved, and in February 1878 the association and the churches fed over 2,000 persons daily. After this the number decreased with the larger supply of work, the number of unemployed persons up to this time having been estimated at 15,000 in San Francisco and 2,000 in Sacramento. The masses attributed the distress to the encroachment of Mongolians on the various branches of trade. Cigar-makers, for instance, had been almost annihilated by them; and shoemakers represented that the Chinamen in the trade outnumbered them by four to one; that two thirds of their 1,200 Caucasian brethren were unemployed; and that their earnings had fallen from an average of $25 a week in 1870 to $9 in 1878. In January 1878 two thirds to three fourths of the 5,000 carpenters and cabinet-makers were said to be idle; but their chief grievance lay with the hard

times and the convict competition; and concerning the latter they remonstrated with the legislature.

The associations of workingmen seeking protection against these evils were probably as fairly represented in California as in other states, and previous to the agitation, which gave them a fresh impulse, they had on their rolls nearly one third of the members belonging to the various trades. In the middle of 1877, when the agitation began, there were more than 25 trades unions in San Francisco, with about 3,500 members, the most compact group being presented by those connected with the ship-building and shipping trades. Several of the unions were branches of national and international associations. Their chief efforts were of course directed against Chinese and convict competition, but they sought also to restrict the admission of apprentices, to limit contract labor as destructive to good workmanship and leading to overwork and ill feeling, and to reduce the daily hours of labor to eight. The latter measure had in view not only the necessary leisure for culture and recreation, but the opportunities it would afford to give employment to more persons.

Occupied with trade grievances, the efforts of the working classes had assumed no decided political phase, beyond holding meetings on the Chinese question, and petitioning the legislature and congress for redress. The failure of these efforts exposed to them their weakness in the political arena. They had left the government chiefly to men of leisure, only to find their confidence abused. It is idle to assert that the workingmen had no grievances, or their leaders no ground for complaints, which, however, too often assumed a threatening tone. Corruption had crept into every department of government; nepotism had been reduced to a system, official peculation to a science. Almost any bill could be lobbied through the legislature with the aid of bribery; grants and subsidies could be purchased; and monopolies could obtain

privileges at the public expense, while the masses were burdened with a tax that swallowed forty per cent of the income of a small property, and obliged the average citizen to work one third of his time for a government which recklessly sank the money in useless salaries, subsidies, and peculations. The working classes became convinced of the necessity of a more organized action to obtain a hearing for their grievances. At this time came the news of the railroad strikes in the east, crowned by the Pittsburg riot, the result of a reduction in wages consequent on business depression. The representatives of labor met on July 21, 1877, to discuss the matter, and called a mass-meeting for the 23d, on the sand-lot in front of the new city hall. In view of the eastern tragedies, the police took precautions, and the national guard assembled at their armories. James F. De Arcy, organizer of the workingmen's party of the United States, presided, and spoke on the struggle between capital and labor, regretting that it had resulted in an appeal to arms. The fault lay with political leaders, who, enslaved by monopolists, had neglected the interests of the country for the sake of office. There were three millions of unemployed persons in the United States. The great cause of trouble was the length of the daily working term, which excluded a large number from sharing in the labor; hence the eight-hour law should be enforced. At this moment an anti-coolie procession came up, and a man in the crowd called for the appointment of a committee to wait on the Central Pacific Railroad Company, and ask that their Chinese employés be replaced by white men. De Arcy replied that they had assembled to discuss the labor question, not the coolie evil. After a few more speeches, resolutions were passed, expressing sympathy for those who had been shot in defence of labor; the grasping policy of the moneyed and governing classes was condemned as the cause of the depression in business; no further subsidies should be granted to

steamship and railroad lines; the military should not be employed; the reduction in wages was a part of the conspiracy for the destruction of the republic; the non-enforcement of the eight-hour law had overloaded the labor market; the government should take immediate steps to remedy the evil, and should condemn to public use all the railroad property in disaffected districts, allowing the owners a fair compensation.

During the session of this meeting, an anti-coolie club formed a platform near by, and gave rise to a riot, which in course of this and the two following evenings resulted in the destruction of a large number of Chinese wash-houses, and in fights between the rioters and the police, aided by vigilants, wherein several persons were killed. For immediately upon the outbreak had come to the rescue of law and order a large body of citizens, as a safety committee, with William T. Coleman at their head. The workingmen's associations denied the insinuations thrown out against them, of being connected with the hoodlums, thieves, and extreme communists who composed the rioters, and large numbers responded to the call which the president of the safety committee addressed to them. The associations in the interior also discountenanced this outbreak, while expressing sympathy with the eastern strikes; and no other riots took place, although Oakland found it prudent to make defensive preparations. A meeting of about 2,000 workingmen had alarmed the town by passing resolutions to the effect that, unless the railroad company discharged its Chinese employés, much damage might be done to its property.

On the following Sunday the clergy took up the subject, and agreed that, while the laboring classes had cause for complaint, they had been hasty and foolish in allowing incendiary language to carry them to extremes. This indirect way of blaming the workingmen for the riot naturally incensed the whole class, and their expressions regarding the overbearing vigi-

lants were by no means flattering; yet the charge was justified to a certain extent by the expressions of sympathy with the rioters in the east, and the indirect encouragement given to the San Francisco rioters by a large number among them. The eastern agitation had found a ready echo among the multitude of unemployed men, at least, and made them willing to unite for the obtainment of remedy. The Workingmen's Party of the United States appeared to be a promising organization, but since the California section could not act independently of the Chicago centre, the leading spirits resolved to form a distinct party for the municipal election in September. Among these men was an Irish drayman, named Denis Kearney, who felt inspired to regenerate American affairs, and who had made his début a few months before at a lyceum for self-culture, and subsequently as member of a committee appointed by the Draymen and Teamsters' Union to lay certain trade grievances before Senator Sargent. The rather ungracious reception accorded the committee excited the pugnacious spirit of Kearney, who began to thrust himself forward as an orator at other meetings besides those held by his own union. On the 18th of August he called to order a gathering of workingmen, at which arrangements were made to organize a party. This held a session four days later as the Workingmen's Trade and Labor Union, at which J. G. Day was chosen president, and Kearney secretary; but no effective organization resulted. In the same month a convention of workingmen met at Sacramento, and adopted resolutions, of which the following may be regarded as leading political principles of the class: the abolishment of all national banks, and withdrawal of all present bank currency in favor of full legal tenders issued only by the United States; exemption of $1,000 from tax and execution upon every homestead; all property to be assessed at full value, and the percentage of taxation graduated from one to ten; the

unconditional abrogation of the Burlingame treaty; the fees of office-holders to be reduced to the prices paid for skilled labor. The determined feeling among the workingmen to seek reform roused Kearney and his associates to renewed efforts, and on September 12th a meeting of unemployed men was held, at which Day presided. After recommending the establishing of soup-kitchens to relieve the hungry, resolutions were adopted: "Whereas, the contending political parties of the country having, through lack of principle or of statesmanship, failed to meet the growing wants of this rapidly developing country; and whereas, their past history furnishes no points of honesty whereon the workingmen can hang any hopes of their future good behavior; therefore, be it resolved, that the workingmen sever all affiliations with existing political parties, and do hereby organize, for the purpose of good and equitable government, a new party, to be called the Workingmen's Party of California, having in view the following reforms in politics: First, the abolition of all assessments on candidates for office; the people to own the offices, not the incumbents. Second, holding state and municipal officers to a strict accountability for all their official acts. Third, the establishment by the state of a bureau of labor and statistics. Fourth, the immediate reduction and periodical regulation thereafter of the hours of labor. Fifth, the creation by the state legislature of a convention on labor, with headquarters in San Francisco."

This was the beginning of the party which was soon to become a power in San Francisco. The preceding platform was but a base on which the leaders built the most extravagant reforms, tending to elevate the poor, overthrow land and moneyed monopoly, and eject the Chinese. These sentiments found ready acceptance among the class who envied the aristocrat rolling in wealth gathered by their hands, who hated the encroaching Chinaman, who detested the politician

as a betrayer and parasite. They were dazzled by the glittering prospects which rose before them like a mirage depicting shady groves and cool fountains to the exhausted traveller in the desert. The infection spread; men came to drink of the fiery harangue, lulling themselves in flattering hopes; tongues were loosened, and speakers rose one after another.

On the Sunday following, the first of the regular sand-lot meetings was held. The attendance was small, but a more successful gathering took place at Union Hall on September 21st, to consider means for the relief of the unemployed. State Senator Roach made the first speech, which treated not only of the Chinese evil, but of social and political corruption, and called for united action to obtain legislation in favor of the poor. Kearney added the forcible hint that every workingman should get a musket, and that a little judicious hanging of capitalists was needed. The mayor was appointed to receive subscriptions. At the following sand-lot meeting, Day was chosen president, and Kearney treasurer; but this arrangement was not to be of long duration, for Day was too temperate to suit the rabble. On the following Sunday, Kearney broke out in the course of his speech with the declaration that San Francisco would meet the fate of Moscow if the condition of the laboring classes was not changed; they had bullets and other means to enforce their object. Day interrupted him by saying that he would not preside at a meeting where such measures were countenanced, but he was yelled down. A portion of the audience thereupon resolved to hold a separate meeting.

Kearney made his arrangements accordingly, and on the 5th of October 150 agitators met to effect a permanent organization of the workingmen's party. Denis Kearney was chosen president, J. G. Day vice-president, H. L. Knight secretary, and several others were placed on the executive committee. The committee on constitution and by-laws submitted the

following principles, which were adopted after a fierce debate: "The object of this association is to unite all poor and working men and their friends into one political party, for the purpose of defending themselves against the dangerous encroachments of capital on the happiness of our people and the liberties of our country. We propose to wrest the government from the hands of the rich, and place it in those of the people, where it properly belongs. We propose to rid the country of cheap Chinese labor as soon as possible, and by all the means in our power, because it tends still more to degrade labor and aggrandize capital. We propose to destroy land monopoly in our state by such laws as will make it impossible. We propose to destroy the great money power of the rich by a system of taxation that will make great wealth impossible in the future. We propose to provide decently for the poor and unfortunate, the weak, the helpless, and especially the young, because the country is rich enough to do so, and religion, humanity, and patriotism demand that we should do so. We propose to elect none but competent workingmen and their friends to any office whatever. The rich have ruled us till they have ruined us. We will now take our own affairs into our own hands. The republic must and shall be preserved, and only workingmen will do it. Our shoddy aristocrats want an emperor, and a standing army to shoot down the people. For these purposes we propose to organize ourselves into the Workingmen's Party of California, and to pledge and enroll therein all who are willing to join us in accomplishing these ends. When we have 10,000 members, we shall have the sympathy and support of 20,000 other workingmen. The party will then wait upon all who employ Chinese, and ask for their discharge; and it will mark as public enemies those who refuse to comply with their request. This party will exhaust all peaceable means of attaining its ends, but it will not be denied justice when it has

power to enforce it. It will encourage no riot or outrage, but it will not volunteer to repress or put down, or arrest or prosecute, the hungry and impatient who manifest their hatred of the Chinaman by a crusade against John or those who employ him. Let those who raise the storm by their selfishness suppress it themselves. If they dare raise the devil, let them meet him face to face. We will not help them."

All this was to be done on principles which should raise the working class at the expense of every other. And after this the Sunday meetings assumed greater strength, while clubs began to form in every ward under the active superintendence of the leaders. Although language was freely indulged in which could only serve to encourage the hoodlum class, yet a calm resolve appeared to have taken possession of the party to strive for the main object, and to discourage any wantonness. The man Kearney was the leading spirit at every gathering, and spoke every night at one or more of the meetings held in different wards, urging unity of purpose, and the formation of military companies wherewith to intimidate their oppressors. It is but just to say that the incendiary harangues were little else than the overflow of an excited brain, serving to enliven the monotony of political speeches; they resulted in nothing more than a momentary applause, and the orderly behavior of workingmen at elections and demonstrations proved that the rough element was not large among them.

It is difficult to say by what means Kearney managed to gain control over the masses, unless it was due to a strong faculty for organization, and to the shrewdness and quickness of perception peculiar to Irishmen. He was a very ordinary looking man, this king of the laboring class, below the medium height, compact in build, with a rather broad head, slight mustache, quick but lowering blue eye, and a nervous temperament—born February 1, 1847, at Oakmount, County Cork, Ireland, the second in a family of seven

boys. His father died, and at the age of eleven he went to sea as cabin-boy, sailing chiefly under the American flag. He gained rapid promotion, so that on arriving at San Francisco in 1868 he was first officer of the clipper ship *Shooting Star*, a position retained by him on several coast steamers for four years. The habit of commanding thus acquired proved of service to him as a leader, although his inclination to domineer led to frequent ruptures with other officers. With industry and temperance he saved money, and in 1872 bought a draying business, in which he prospered until 1877, when the merchants withdrew their patronage because of his connection with the agitation. Although he appealed to his followers to support him, and drew $30 a month from the collection taken up at the Sunday meetings, it is said that he was not devoid of means. He married in 1870, and had several children, all trained in the catholic faith like his parents, although he himself had little religion. He was naturalized in 1876. In speech earnest and forcible, partaking of the epigrammatic, and showing a smattering of historical knowledge, he was coarse, nevertheless, ungrammatical, with a pronounced brogue, and shallowness of arguments and thought. His ideas of politics and economy were crude, being based on his own illogical conceits. For example, when he became king he would decree a minimum pay of three or four dollars a day for any kind of labor, the expenditure of which sum was to create an extraordinary development in the country. Every man should have his cottage and a few acres of land. Poverty was to be abolished, and accumulation of large wealth prevented by laws under which manufacturers and traders could not retain more than a fixed amount of profit, the surplus to be devoted to public works and institutions. He assumed the right to speak at any public meeting as the representative of the workingmen. Despite his tirades against Chinese, he often interfered in unprovoked attacks on that race. By his admirers he was compared to

Napoleon, to Cæsar, and even to Christ, and his vanity was quite equal to the emergency. The New York *Graphic* elevated the name of Ben Butler for United States president, and Denis Kearney for vice-president, the latter scarcely detecting the covert irony. He frequently expressed himself able to effect anything with his followers, from the lynching of a railway monopolist to the destruction of a city. At a meeting in December 1877, he promised, in the course of his customary tirade against thieving millionaires and scoundrelly officials, "If I don't get killed I will do more than any reformer in the history of the world. I hope I will be assassinated, for the success of the movement depends upon that." "Judge Lynch," said the reformer, on another occasion, "is the judge wanted by the workingmen of California; I advise all to own a musket and 100 rounds of ammunition." This braggadocio had its effect with the simple, for surely so brave a talker must be a great man. The promising aspect of the movement attracted a large number of workingmen, who raised the party to power.

J. G. Day, the vice-president of the party, was a Canadian carpenter, of Irish extraction, fully six feet tall, with reddish beard. Like Kearney, he was a temperate and industrious man, with a common-school education, but with good and rather thoughtful language, and opposed to incendiary harangues. A more prominent member than Day was H. L. Knight, the secretary, short, squat, with round face, twinkling eyes, and small gray mustache. He came of a Yorkshire family in England, with a strong proclivity for reforms, almost any kind being better than none. He arrived in America in 1842, and became a citizen in Missouri, where he was admitted to the bar. After serving through the Mexican war, he found his way in 1852 to California, mined till 1865, gave some attention to law, and finally became a Bohemian bummer. He presided at one of the first republican meetings in Nevada county, and served in the work-

ingmen's cause before joining the Kearney movement. Among other leading members may be counted another Irishmen, T. H. Bates, house-painter, with quite the air of a sporting man, and O'Donnell, quack.

At first the movements of the workingmen did not attract the special attention of the authorities, although business was evidently suffering under the continual alarm called forth by rabid speakers. But on the evening of October 29th, about 2,000 workingmen held a threatening demonstration in front of the houses of the railway men, on what now began to be called Nob Hill. Bonfires were lighted, with the usual fiery speech, interspersed with rough jests at the expense of the august offenders, who were greatly alarmed. Philosopher Pickett was there, and proposed to pull down a high fence thrown around the house of a man who refused to sell it at a reasonable price to a railroad magnate who wished to extend his grounds over the entire block. Kearney checked the movement, remarking, however, that were he to give the order to hang the railroad man, it would be done. Instead of this, he suggested that on the arrival of the China steamer, 2,000 men should march to the docks and throw the immigrants overboard.

Although the Nob Hill meeting was held half in sport, the men of that place did not like to hear 2,000 rough fellows talk of hanging them; so they had Denis arrested at a meeting on November 3d, on the ground of using incendiary language. The desired martyrdom seemed near at hand, and Denis quietly followed the officers to prison, waving back those among the crowd who would attempt a rescue. The customary sand-lot meeting was forbidden for the following day, Sunday; the militia was called out, and the vigilants warned to be on the alert.

That Sunday was an anxious day in San Francisco. Despite the rain, rough-looking men began to gather and indulge in rather free utterances, and finding no other place open to them, they hired the Agricultural

Hall. Day and Knight, with several others, were arrested on the platform, while more temperate speakers were allowed to proceed and allay the excitement, which at one time threatened riot. The supervisors had been working rather tamely in the movement inaugurated a few weeks before to relieve the distressed in San Francisco, but under the impulse of the present excitement, the citizens determined to act with more energy, and at a meeting on November 5th, presided over by the mayor, committees were appointed to canvass the city for subscriptions. About $20,000 was collected, of which some $12,000 was set aside for a free labor exchange, and the remainder distribtued among charitable institutions. The exchange was opened November 21st, and did good service. The supervisors issued an ordinance, termed the Gibbs gag law—after the supervisor who introduced it—which was intended to check incendiary speech. The leaders were meanwhile languishing in prison for want of bail, which had purposely been placed high. This was regarded as an attempt to punish before convicting, and helped to create sympathy for them. Finally, on November 14th, bail was obtained, and shortly afterward the charge against them of incenting to riot was dismissed, despite the rumor that the vigilants intended to hang them if they were acquitted. During imprisonment the leaders addressed a letter to the mayor, stating that they had been unfairly reported, that they were willing to submit to any wise measure to allay excitement, and that they would hold no more incendiary or outdoor meetings. No sooner was Kearney at liberty, however, than he resumed the customary tirades, assailing the judges, the police, and the gag law, and creating fresh alarm. On Day, the vice-president, imprisonment had evidently a dampening effect, for he objected more decidedly than before against the bombast of his colleague, whose rising importance and assumption had, besides, created envy and disgust.

Finding that his expulsion was probable, Day announced his secession November 25th, to the delight of Kearney, who could brook no opposition, and who had intimated that too much brains would kill the party. As a wholesome warning to other malecontents, he, at a ward meeting, moved and carried amid acclamation the proposition that "if any officer or leader in the workingmen's movement lagged behind, or proved recreant to the trust, he should be hanged to the nearest lamp-post."

Released from prison, Kearney's chief concern was to prepare for the Thanksgiving-day parade, which had been decided on in October. To collect the necessary funds, subscription-lists were opened and a concert held. At this, and at many subsequent entertainments by the workingmen, a farce was given depicting the terror of the railroad men during the night of the Nob Hill demonstration. In view of the late excitement, the policy of permitting the parade was much discussed; but so long as no incendiary features were noticed, the authorities could not well oppose it. Meanwhile the Asiatic world kept within doors, though watchful; stores were barred and theatres closed. Kearney's efforts were most successful, and as grand marshal he conducted over 7,000 adherents, the representatives of every ward and trade in the city, in orderly march through the streets, forming a most imposing protest against Chinese labor, iniquitous monopoly, and refuting the insinuations of incendiary intentions. The parade was not only temperate, but patriotic, since none but American flags were carried, and they by American union soldiers. The tenth ward club, which formed the first division in the line, numbered nearly 1,300, a favorable showing for the rapid growth of the party. Behind came eight more divisions, all bearing a number of emblems, mottoes, aphorisms, and pictures, chiefly directed against the Chinese, but also expressing the claims and dignity of labor, or denouncing the corruption of officials, the

greed of monopoly, and so forth. A favorite device was a huge boot, in close proximity to a flying Chinaman, which expressed the rallying-cry of the party, "The Chinese must go!" with which Kearney generally began his speeches. The procession terminated at the sand-lot, where the usual oration, poem, and music were given, under O'Donnell's presidency. Kearney followed with a speech against the Burlingame treaty, and thereupon announced the deposition of Day from the vice-presidency, in whose place William Wellock was now elected. After passing a resolution in favor of winding up the national banks, the meeting dispersed quietly, the only disturbance having taken place when some members of the procession went to the rescue of a Chinaman beset by hoodlums.

Wellock was a Yorkshire shoemaker who had served in the Crimean war. He was likewise evangelist and bible expounder. Landing in America in 1873, he worked at his trade in various places, and reached San Francisco in 1877, where he was naturalized. He was tall, with a long, narrow head, high forehead, full, short beard, and nervous temperament. Having married a widow with some means, he could afford that luxury of low foreigners—United States politics. His phraseology was not devoid of culture, and was rendered more attractive by an admixture of dry humor; but its chief ingredients were the frequent gospel quotations, of which his training as evangelist had given him a ready command. Thus by cheap religion the cause was made sacred. Parson Wellock they called him, chaplain of the party, before assuming the vice-presidency. He used to appear at the sand-lot, bible in hand, read a text, discourse thereon, interpolating arguments of a political nature. Like Kearney, he was not inappreciative of his own importance, and had magnanimously declared that he would accept no office. At a mass-meeting in December 1877, he promised that when he and his colleagues had cleared California of her demagogues, they would

do the same in other states, till the whole republic should be purified; then they would go to England and pull down the old monarchy. When that was done, Wellock considered his work as ended. Speaking of the monopolists, he would say: "These men who are perverting the ways of truth must be destroyed. In this book that is called the bible, the Lord is said to be a consuming fire. When he commands we must obey. What are we to do with these people that are starving our poor, and degrading our wives, daughters, and sisters? And the Lord said unto Moses, take all the heads off the people and hang them before the Lord. This is what we are commanded by a supreme being to do with all that dare to tread down honesty, virtue, truth."

The parade added greatly to Kearney's popularity, and the attendance at the following Sunday meetings numbered from 4,000 to 6,000 persons. He harangued as loudly as ever against railroad swindling, urged the formation of military companies, and affirmed that he was as ready to die at the hand of assassins in the pay of monopolists as in any other way, if it would help the cause.

At one of the ward meetings, a member proposed amid acclamations that Kearney should receive arbitrary power, like Napoleon when called upon in 1798 to save Paris. The arch-agitator had no objections; he was the voice of the people, he said, 40,000 of whom he represented, and would remain dictator till the people deposed him. In many of the ward clubs it was not prudent to dissent from his views, for men who did so were often roughly treated. There were a few workingmen's clubs where Kearney was not admired, and there were several associations which differed in name and principle from Kearney's party, declaring him a mushroom forced by incendiary fires.

An atetmpt had been made by Kearney on Thanksgiving day to form a central body of delegates

from various labor organizations in the city and country; but this failed, and he resolved to push the scheme in the interior by personal exhortation. Accordingly, in the middle of December, he and Knight set out to stump the southern country and to organize clubs. The expenses of the trip were defrayed by the Sunday collection fund, from which Kearney and Wellock drew some $40 a month each, and from which was allowed $10 a week for his services as secretary. Their efforts were not very successful among the farming communities, which were naturally conservative, but in the larger towns, as Angeles and San José, the workingmen mustered in force to applaud their fiery speeches. After his return, Kearney issued an address in the name of the Workingmen's Party of California to the workingmen of the United States, dated December 29th, which was extensively published, and dwelled on the various evils afflicting the country, as misrule, land monopoly, Chinese competition, stock-gambling, and railroad oppression. It demonstrated that reform was imperative, that self-help alone could effect it, and that all should unite to this end. "Do not believe those who call us savages, rioters, incendiaries, and outlaws. We seek our ends calmly, rationally, at the ballot-box. So far, good order has marked all our proceedings. But we know how false, how inhuman, how unjust our adversaries are. We know that if gold, if fraud, if force can defeat us, they will all be used. And we have resolved that they shall not defeat us. We shall arm. We shall meet fraud and falsehood with defiance, and force with force, if need be."

Another address, more in accordance with the established order of things, had been sent, December 12th, to the president of the United States by the workingmen of Oakland, petitioning for the abrogation of the Burlingame treaty. This was transmitted to the senate, but without effect. Equally unsuccessful was the movement of Kearney, January 3, 1878, when he led

several hundred unemployed men to the city hall to demand "work, bread, or a place in the county jail." On their march the columns were swelled to some 1,500. Halting before the mayor's office, they created no little alarm in the treasury office and among the store-keepers, despite their orderly conduct. The three leaders entered to confer with the mayor, representing that they could not control the men any longer; the capitalists, who had raised $78,000 some months previous to repress free speech, might now surely subscribe enough to establish an industrial colony, or take other measures for relief. The mayor could offer nothing but promises; and although a bill was introduced in the legislature authorizing the city of San Francisco to employ 2,000 men for three months, yet the municipality failed to respond. The alarm created by this demonstration came just in time to prompt the grand jury, January 5th, to indict Kearney, Knight, Wellock, and three others, for incendiary speech and terrorism. At a meeting of the cooks and waiters, December 29th, Kearney was charged with saying: "I am glad to see you making preparations for the fish-balls—that is, you make the balls, and we will fire them. If the members of the legislature overstep the line of decency, then I say, Hemp, hemp, hemp! That is the battle-cry of freedom." He defied the grand jury, and if imprisoned, he would work out of the jail and "annihilate every one of these hell-hounds in the state of California." The indicted men were arrested under the Gibb law and released on bail, the arrest and release being repeated several times. On the Sundays following the first arrest, crowds of from 7,000 to 11,000 assembled on the sand-lot to greet their persecuted chief, who denounced the mayor and grand jury, and declared that the workingmen would drive out the Chinese or die in the attempt. He foreshadowed a glorious future, and hoped that a later generation might find a slab with the inscription: Here lies

Kearney, the drayman, who led the victorious charge against the hordes of tyranny, and died for liberty and the rights of man.

During his speech at the tenth ward club, Kearney proposed amid cheers, that if the Chinese immigration continued, all should march to the Pacific Mail Steamship Company's dock, and blow the steamers out of the water. He urged the members to come to the sand-lot on the following Sunday, January 15th, with muskets and sticks. They had men, he said, who would manufacture balloons for dropping dynamite into Chinatown, and other infernal machines by which men might be secretly destroyed. These expressions were substantially repeated at the eleventh ward club, where several inflamed speakers had proposed to crown Kearney with a coronet of twenty-dollar pieces, to be taken from Nob Hill, and to form a military company, in order to learn how to step at a funeral, for the contest against the Chinese would not be given up till there was blood enough in Chinatown to float bodies to the bay. The proposition for a military company was responded to by 150 men. When Kearney put the question, "Are you ready to march down to the wharf and stop the leprous Chinamen from landing?" there were loud cries of Yes! Even the usually quiet Germans caught the infection, and one speaker hinted that were a few guns to be turned on the city, millions of dollars might be extorted wherewith to form a fund for the common benefit. This language could not fail to create alarm, supported as it was by the ominous fact that the military company of the tenth ward remained behind for drilling, after the club had closed. During this and the following months, several wards formed military companies, and took up subscriptions or arranged for picnics, so as to obtain a fund for the purchase of arms, and the shoemakers set an example to the trades unions by forming a guard. Some of the companies were never able to acquire better arms than broom-sticks, and

dissolved in disgust; but the tenth ward succeeded so well, that when its company had obtained some 80 men and over 100 breech-loading muskets, another company was started. When Kearney was elected lieutenant-general of these forces, March 6th, with Knight as adjutant, besides three staff-officers, a uniform was adopted, with black trousers, blue shirt, and fatigue cap. The summit guard alone refused to be controlled by men devoid of military knowledge, and fell under the displeasure of the leader.

Such speech and action were not lost on the authorities. On the 16th of January the leaders were placed under lock, the National Guard was called out, a war ship was sent to protect the Pacific mail dock, and the city fathers held a secret session, which resulted in the appointment of a committee for Sacramento, with orders to prevail on the legislature to pass at once such bills as were needed under the circumstances. The senate responded next day by passing the so-called Murphy riot bill, which met with opposition in the assembly, but passed on the 18th in an amended form. Under this act the authorities were empowered to arrest incendiary speakers and to disperse any doubtful gatherings. The workingmen were, of course, unanimous in condemning the measure. Kearney was prevailed upon to issue a proclamation to his followers, asking them to hold no Sunday meeting at the sand-lot, but to join the gathering at Oakland, where resolutions would be adopted, petitioning the legislature to repeal the riot act. The authorities were nevertheless apprehensive that the agitators might carry out the resolution to assemble in arms on Sunday, and the governor came to the city with his staff to render assistance, arms being forwarded from the military headquarters for the use of the citizens. To increase the general alarm, a run began on the savings banks, against which Kearney had been declaiming, and the cry from the unemployed rose louder than ever.

One dollar a day was offered for laborers on the railroad and in the park, and about 1,000 men responded; others condemned the measure as a pretext to reduce wages during the prevailing distress. Churches then spread free lunches, and exhorted to temperance.

A workingmen's convention had been called for the 21st of January, and although the mayor was opposed to an assembly of this kind in the midst of the general excitement, the governor prevailed on him to let it take place. The attendance on the first day was small, and no business transacted beyond condemning the incendiary orations of Kearney, who with his lieutenant was now in prison, the temporary chairman remarking that they had doubtless served to electrify the workingmen into action, but to continue them would be injurious. The following day Kearney and Knight were acquitted on the first indictment of the grand jury of inciting to riot, and released on bail on the other charges. The first ballot of the jury had resulted in nine for acquittal, two for conviction, and one blank. The second ballot merely changed the blank into acquittal, whereupon one of the jury declared that he was for acquittal, and demanded that those who had so voted should announce themselves. The result was that all declared having voted for acquittal, the two for conviction being evidently afraid to incur the anger of the Kearneyites. The same day came the news of the victory of the workingmen at the Alameda county election for state senator. At the foregoing election in September the total vote had been 7,118, which the republicans and democrats had shared pretty equally, the workingmen polling only 118. On the present occasion, the rainy weather and other causes had reduced the vote to 4,340, of which the workingmen carried 2,730, the republicans 2,038, and the democrats 572, a reversal of figures which created unbounded enthusiasm among the Kearneyites. Mr Bones, the elect, had declared that he was

not an adherent of Kearney, who had nothing to do with the law and order convention of workingmen which nominated him, but the former nevertheless assumed all the credit of the victory, and proceeded on January 23d to bring the new senator in triumph to San Francisco, where a large procession came to receive them. The same evening the workingmen's convention held its second meeting, with an attendance of 150 delegates, including representatives from the interior. Kearney was elected president of the assembly, and Manning vice-president. On the following morning business was taken earnestly in hand, and several resolutions passed, among them a bitter denunciation of the riot acts of the state and municipality, and of the conduct of the mayor. A platform was then presented, covering the stereotyped measures, reform of the general government, extinction of unjust monopoly, extermination of the Chinese, restrictions in holding lands, punishment of iniquitous officials, eight-hour regulation, amendment of the United States constitution, compulsory education, and the like. A party constitution was formed. A state central committee was formed, with five members from each senatorial district, and one representative from each trades union. After having denounced the National Labor Party, the convention adjourned on January 25th.

Notwithstanding the law's arrests, and the vigilant attitude of the community, the historic sand-lot still breathed loud threatenings. One Sunday Kearney produced a coil of rope with a noose at one end, declaring that to be the new unwritten platform of the party, by which should be measured all officials in the country who betrayed their trust. A joint committee was sent by the legislature to investigate the trouble in San Francisco. The members began their labors February 2d, attended a sand-lot meeting at Kearney's request, and found nothing illegal in the somewhat subdued tirades of the leader against the conduct of officials,

capitalists, bankers, and politicians, nor in the resolution that the Chinese must be made to go, peaceably or forcibly. The testimony taken at subsequent sessions from officials and civilians declared that incendiary language had been used every night, that Kearney had urged his followers to arm, that two military companies did already exist, and that the authorities were obliged to take precautionary measures against a movement which kept the city in continual alarm, prevented business, and cost the municipality much money. Captain Lees, of the police department, believed the agitators in earnest, since they so faithfully attended the meetings, regardless of wind and rain. Kearney had proposed to lead them against the China steamers; and he certainly could do whatever he pleased with them, for they feared him. The incendiary acts protected the workingmen as well as others, and interfered with no peaceable citizen. The Kearneyite witnesses scouted the idea of endangering the peace of the city, and asked their accusers to point out a single aggressive act committed by them. Judge Ferral took the same view, and declared that the workingmen had been merely blustering; the police had created a just discontent by their severity; rumors were current that the leaders would have been hanged by a mob if they had not been arrested. March 11th the committee presented its report to the assembly, showing that the adherents of the workingmen's party had not been engaged in the July riots of the year before, and that no overt act could be proved against them, although the language appeared of an incendiary character, if interpreted without regard to surrounding circumstances. It condemned the police for unwarrantable roughness in dispersing meetings. The passage of the riot bill by the assembly had been ill-timed, and it should be repealed, since the code provided for its clauses. The Chinese element was declared to be a curse, and suggestions were made for devising speedy means to give employment

to white men on public works. This indorsement of their conduct was a great triumph for the workingmen, soon to be followed by several others.

During the second week in February, the three leaders visited Santa Clara county to influence the election of state senator and assemblyman, and to organize clubs. The result was not as they had hoped; but the election was so closely contested that there was every reason to be satisfied with the progress of the party. Soon after, in March, came the municipal elections of Oakland and Sacramento, whereat the workingmen gained the victory for several of their candidates. The entire press now came forward to recognize their organization as one of the great parties of the state, and to laud Kearney as a shrewd politician. The subtle influence of railroad money was now apparent in this crude lump of humanity, formed for the purpose, among other things, of exterminating the monopolists who were now becoming their masters. It was likewise stated that the bonanza bank flung the arch-agitator a few pieces occasionally from its vaults. On his return from Sacramento, Kearney received an ovation, being marched in triumph through the streets of San Francisco by an escort of over 7,000 men. An attempt of the legislature to pass a bill for the sale of the Spring Valley Water Works to San Francisco, for fifteen millions of dollars, created a unanimous outcry in the city, and on March 16th a meeting of property holders was called to denounce the scheme. Upon the scene with a large escort appeared the agitator, and proceeded to take a place on the platform. A prominent citizen reminded him that he had not been invited, but Kearney insisted on his right, as the representative of the workingmen, to share in the deliberation, and calling for a show of hands among his adherents, he without further ceremony declared himself elected chairman. As such he carried matters with a high hand, obliged his enemy of the *Morning Call* to humble himself, tore up the

list of representative men who had been proposed as a committee on the question, and formed another list of names suggested chiefly by himself and his followers. Finally, he refused to allow State Senator Nunan to speak, on the ground that he was a politician, and during the confusion which ensued in consequence, a friend of Nunan pushed Kearney off the platform, but his followers came to the rescue and replaced him, not without some trouble, which involved the destruction of furniture and heads. The result of the meeting was the passage of resolutions instructing the city representatives in the legislature to vote against the bill, and the appointment of a committee, which despatched six deputies to Sacramento to lay the resolutions before the governor and legislature.

At the close of March, Kearney introduced a new element in his speeches. It had already been stated at a ward club meeting that the leader was opposed to Americans in the party, whereupon one of the speakers suggested, with great liberality of spirit, that all should receive an equal chance. That the charge was not without foundation appeared from a speech which Kearney delivered before the German club at the close of the month, and wherein he used the following words: "Pixley said to me that the narrow-faced Yankees in California would clean us out, but I just wish they would try it. I would drive them into the sea or die." If the vigilants, he added, took one step to break up the workingmen's party, San Francisco, with its wooden structures, should meet the fate of Moscow. The comments evoked by these remarks were severe and well-deserved, particularly the Moscow simile, and several clubs hastened to disavow any sympathy therewith; but a more formidable reprimand came from Archbishop Alemany of San Francisco, in the form of a circular, dated April 5th, and addressed to the priests for announcement to the congregations. It warned the people against the evil of seditious talk and association, admonishing and

even requiring every one to discountenance and remain away from incendiary meetings. Some of the fathers took occasion to impress the pastoral on the minds of the flock by earnest appeals, and predictions were freely uttered that Kearney would find his followers diminish in consequence. The leader took up the gauntlet at once, and declared that although his family belonged to the catholic church, and he was trained therein, he would allow none of its ministers to interfere with the political rights of the people. He called upon the women to advise pastors to attend to their own affairs, and even denounced the archbishop for allowing himself to become the tool of coolie protectors. Resolutions were passed that the party recognized no distinction of religious creeds, but united on one rule of faith alone; that resistance to tyranny is obedience to God. Interference of the church in political rights was declared sedition under the United States constitution. All were enjoined to aid the patriotic cause of the party. Several ward clubs passed similar résolutions, and one even sent a committee to the archbishop to request an explanation, but received from the representative of the prelate merely an exhortation to obey the legal authorities, and a hint to change the leaders.

The question which had now become all-absorbing among political parties in the state was the approaching election of delegates to frame a new constitution. The defects of the constitution of 1849, made for different times and circumstances, had become generally apparent. In San Francisco it was the opinion that special legislation should be more restricted, for it was a noticeable fact that legislatures of states, with single large cities to manage, have, as a rule, been tempted to plunder them. Besides the many special imperfections of the code, a mass of useless laws and amendments had been accumulating which needed weeding. During the legislative session of 1873–4 particularly, a large number of amendments were proposed. The matter was referred to the next legisla-

ture, however, which passed an act, approved April 3, 1876, recommending the electors to vote at the first general election thereafter on the question of calling a convention to remodel the constitution. This election took place September 5, 1877, when a small majority decided that a convention should be held. On March 30, 1878, an act was approved, regulating the formation and duties of this body, which was to be composed of 152 delegates, who were to be elected on the third Wednesday in June. Their compensation was fixed at the same per diem and mileage as those of the legislative members, for a term of not exceeding one hundred days. The new constitution must be submitted to the people at a special election to be held on the first Wednesday in May 1879.

The workingmen were fully alive to the fact that this was their opportunity for obtaining the reforms they had been so loudly demanding, and a determination became apparent that they intended to use every effort to secure them. Nor did the ward presidents, members of committees, and other officials of the party lag behind in this movement; but their zeal was evidently impelled by other inducements besides honor and patriotism, namely, greed of office, with its pay and other prospective advantages. The aim of the majority was therefore to secure nomination on the ticket; but Kearney was not willing to let the party so successfully organized by him be made a cat's-paw for the advancement of personal interests, particularly since the schemers had become so absorbed in their various plans as to care little for the leader. The aim of the party was reform, and this was not likely to be promoted by the entry of office-seekers whose nomination would disgust the people, and whose election was sure to retard the objects of the movement and create a split, all to the prejudice of King Kearney. Which is the greater, the ruler or the maker of rulers? Kearney saw no inducement to surrender his present position for any office in the gift

of the party; and finding that he could not in any case expect to control the convention, he resolved to maintain the character of a disinterested champion, and thwart the plans of the sub-leaders, who had become disaffected and were seeking to undermine him. Indeed, a coup was necessary for his own sake as well as for the party. He accordingly caused a resolution to be passed at a meeting of his adherents, declaring that no officer of a workingmen's organization should be elected to any political office in the gift of the party. This fell like a bomb-shell among the leaders; and at the meeting of the state central committee, April 26th, Secretary Knight began a severe attack on the Cæsarism fostered by the *Open Letter*, Kearney's organ, and on the policy which sought to displace two thousand able and tried officers, who had labored for the advancement of the party, to let a pack of ignoramuses reap the benefit of their work, and to elect dolts to frame laws for the state. The result would be a second Rump Parliament, held up to the scorn and derision of the country. Kearney replied in scathing terms, reviewing Knight's career as a loafer and low scribe whom he had raised from the gutter. He also attacked other prominent members, and created a turmoil, during which every person charged every other person with corruption. Finding himself outnumbered in the committee, Kearney brought the case before the sand-lot meeting, and declared that he would never allow corrupt men of conventions to rush in for spoils, destroy the aims of the party, and leave the people without a voice. Knight maintained that a state convention was the proper body to consider the proposed change in the constitution of the party; but the meeting sustained Kearney's resolution almost to a man. The county committee met the same morning, April 28th, condemned Kearney, and declared that they would not be ruled by one man. The decision of the sand-lot meeting had its effect, however; for although the state central committee continued to be turbulent,

the resignation of Kearney, called for by Knight, and tendered by Kearney himself, was not accepted. This body thereupon issued a proclamation, signed by Kearney and Knight, calling upon all persons to support the party at the forthcoming general election in its endeavors to so amend the constitution that the Chinese should go; land monopoly cease; the rich be taxed as closely as the poor; the children of the state be cared for; malefeasance in office be punished in the penitentiary; economy should guide all public affairs; and other needful laws be passed to restrict all-absorbing wealth. It also called on the workingmen to elect delegates to a county convention, and propose names for nomination to the constitutional convention. The delegates were to meet May 10th to make nominations for the county, and to elect delegates to a state convention, which had on the 16th of May to join the delegates from the congressional districts in nominating the eight candidates for the state at large to the constitutional convention. Each club would receive one delegate for the state convention, or one for every hundred members, and each county three delegates for every state assemblyman allowed to it. The principles of the Sacramento section of the party were more defined, proposing to regulate taxes, railroads, office-holders, justice, and make the employing of Chinese arriving after 1879 a misdemeanor.

On May 1st the county committee, the executive committee, and the presidents of the clubs held a meeting wherein Kearney was condemned for assuming too much power; but no further action could be agreed on, and the majority of the club officers returned at once to their allegiance, sustaining the leader, while others rejoined the fold gradually. On May 4th Kearney called a meeting of the ward presidents, seven of whom responded, and resolutions were adopted excluding all officers of committees, clubs, or trades unions from nomination to any office in the state in the gift of the party, and forbidding them to

resign in order to accept nomination; but all candidates for such office must be selected from the ranks of the clubs, unions, and associations. A plan of organization and government of the party, in sixteen articles, was also discussed and adopted, the main principles being: 1st, the calling home of the county committee; 3d, that each ward make its own nominations by direct vote of the people; 12th, that the clubs in the same ward combine in mass-meeting for that purpose; 15th, the final ratification of candidates to take place at the sand-lot.

On the following day Kearney crowned his triumph by procuring the dismissal of Knight as secretary of the party, H. M. Moore being appointed to his place. The county committee, which Kearney had dissolved, met with a limited attendance, and retaliated by denouncing the leader, severing all connection with him, and calling upon all loyal clubs to rally to their aid. Minorities in clubs of divided partisanship were advised to form independent associations. On May 6th the anti-Kearney members of the executive committee deposed Kearney from the position of president of the party, and chairman of the committee, and elected as chairman of the state central committee F. Roney, a moulder from the north of Ireland, and president of the eighth ward club. The title of president of the party was ignored. An address was thereupon issued to the electors, signed by Roney as chairman, and by Knight as secretary, giving as the reasons for Kearney's deposition that his manner was dictatorial, that he accused all of treason who differed from him, declaring the officers of the party to be traitors and schemers; that grave charges had been made against his honor and integrity; and that his language and conduct indicated a disordered mind. In accordance with a call from this central committee, the county committee united on the following day to summon a county convention of loyal clubs, for the purpose of electing delegates to the state convention.

Meanwhile a joint committee met to investigate the charges against the deposed leader. Sustained by the majority of the clubs, Kearney took no notice of his adversaries, but appointed men to fill the places of inimical members on the executive committee, and issued an address announcing this act, and urging the clubs to elect delegates for the state convention of the 16th, to which he would submit the question as to who was the legitimate president, and which the rightful executive committee. He also formed a provisional county committee. On May 8th the anti-Kearney faction held a mass-meeting, but the Kearneyites attended in such force as to outnumber them. Knight, the leading speaker, could scarcely make himself heard amid the hisses which sought to drown every anti-Kearney sentiment, and the deafening applause that hailed every reference to the leader. Kearney arrived during the session, but was refused admittance, and when his friends tried to force an entrance, they met with a most determined resistance, it being intimated that Kearney would have been shot if he had persevered. Fully half of the assembly thereupon left the hall, to attend the meeting which Kearney formed outside, but the police objected to the obstruction, and used rather severe measures in dispersing the crowd. For this the sergeant in command was soon after suspended, at the pressing instance of Kearney.

Two days later the Kearneyites were convened at Charter Oak Hall, the headquarters for the election campaign, with an attendance of 14 club presidents, viz.: of wards No. 2, 4, 6, 7, 8, 1st branch; 9, 2d branch; 10, 11, branches 1, 2, 4; and 12, and of the Scandinavian, French, and Spanish clubs. A few others were absent because it was club-night. The object of the gathering was to form a plan for the coming campaign; and it was decided that the ward presidents should form a county committee with clerical duties only, for the wards should control the body. Each member of

the party must subscribe five cents for campaign expenses. The city clubs would send sixty delegates to the state convention for the 16th, or three for every assemblyman from the city, the foreign clubs being allowed two delegates each. Two days afterward the club presidents issued an address to the people, enumerating in a rather sweeping manner the evils which the party proposed to remedy, condemning the schemes of office-seekers, repudiating the anti-Kearney faction as corrupt, and recognizing Kearney as president, and as the modern patriot—poor, plain, unassuming, and unselfish. On the day named both parties resorted to tactics whereby to win over the country delegates, and Wellock came to blows with an anti-Kearneyite. The country members determined before deciding to hear the arguments of the respective factions, each of which appointed three speakers for the purpose. The first vote resulted in twenty for Kearney, ten for Roney, and nine against both, a few arriving too late to cast their ballot; but finally all except nine joined Kearney, representing ten counties. Several other counties were in sympathy with the leader, although no delegates had been sent, and a few non-official members from such counties were therefore admitted as delegates. Besides these men, 53 out of the 60 city delegates attended the Kearney convention, of which this leader was chosen president, and three country members vice-presidents. A joint resolution was passed, acknowledging "in Kearney an organizer worthy to rank among the great organizers of history," and deserving their confidence. The officers of the party were reëlected, Kearney as president, Wellock as vice-president, receiving also the title of state lecturer and organizer, and H. M. Moore as general secretary. At the session of the following day the resolution on the non-eligibility of officers for nominations was confirmed; but an amendment was introduced declaring any man in sympathy with the party as eligible for election to the constitutional convention. None of the resolutions create

particular comment among the press, except one demanding that all laws should be ratified by the people, which was declared to be communistic, and subversive of political order.

On the following day the convention proposed nominees for the constitutional convention, Kearney declaring that men should be selected only for ability and integrity, and be taken from all classes, from hod-carriers and carpenters to doctors and lawyers, whose character should be subjected to the closest scrutiny at the sand-lot. He added that the Mc's and O's should be excluded as much as possible, but this was probably a mere phrase. A nomination of himself was promptly declined. The Socialistic Workingmen's Party of the United States, with a claim of one hundred thousand voters, was recognized as a kindred association. The design adopted for a vignette on the workingmen's ticket consisted of a huge boot kicking a Chinaman into the Pacific Ocean, surmounted by the inscription, "The Chinese must go." A constitution was then adopted. The convention adjourned on May 19th, and shortly after Wellock started northward on a brief tour to lecture and to organize clubs. The remaining work of the convention was assumed on the 21st, by the first congressional district convention, which adopted a resolution in favor of a purely secular system of public schools, and the non-interference of the church in affairs of state. Rules were also laid down to govern the nomination of candidates. This convention adjourned on May 27th, after having nominated the eight delegates for the state at large to the constitutional convention, the nominees being presented to the mass-meeting June 12th, and confirmed. The workingmen's county convention at Sacramento adopted the Kearney platform, and nominated candidates on the 22d of May. The anti-Kearney faction, also known as the county convention party, opened their state convention on the same day as their opponents, with fifty city and nine county delegates, the lat-

ter being all from Sonoma county, and with Secretary Knight as the leading spirit, although Roney was chairman. The proposition to exempt from taxation property of less value than $1,000 savored too strongly of a desire to shift the burden of sustaining the government to the shoulders of the wealthy; and yet the non-tax-payers claimed full voice in determining the course of the administration. In this and several other respects the anti-Kearneyites were certainly more radically socialistic than the other faction, probably with a view of strengthening their cause among the extreme adherents of the party, who were supposed to be Kearney's chief point d'appui. They nevertheless rejected an offer from the national labor party convention to join with them and the national union party in nominating delegates so as to sweep the field, and that body formed its own ticket early in June.

As I have said, the workingmen's movement had ever since the Alameda election commanded the respect of politicians seeking office. At the late general election, the democrats had scored a triumphant majority, but now, within a few months, the workingmen had at several local elections turned the tables upon them by an almost complete reversal of the votes; and it was well understood that the adherents of the new party in San Francisco were drawn chiefly from the democrats. As the June election approached, the latter became convinced that their chances were hopeless; nor could the republicans expect success unless they should seize on this opportune split in the opposition rank to court public favor by a modification of their course. It was evident that both parties had failed to retain public confidence, and that the new body rising upon their shoulders was gaining favor by its energetic reform schemes. But it was still untried, and suspicions of its communistic tendencies received support from the incendiary language of the leaders, from certain platform clauses, and from its acknowl-

edgment of the socialistic workingmen's party. In the larger towns, with a numerous class of laborers and persons who were bound to the state by no solid ties of property, who had nothing to lose by extreme reform, there was every prospect for the success of this party. To the small property holders also, on whom the increasing taxation was pressing with great weight, the promises of reform held out by Kearney outweighed any possible danger from mob rule. The preceding hard years had been felt by all classes, and were supposed to have created a general disposition for a change; but this year the harvest prospects were most flattering, and tended to spread a marked hopefulness, particularly among the farmers, the most conservative of people. The intelligence of the farming community was, besides, too advanced to be influenced by shallow reasoners of the Kearney stamp, who hooted down whatever they did not approve. It was understood how rabid and ill-timed was the cry against capital, by which alone the resources of the country could be developed. The ascendancy was feared of a mob guided by incendiary agitation which had, clearly enough, done much to promote stagnancy in business, and check the immigration of a desirable class. The proposal of the Kearneyites to select delegates for the constitutional convention as much as possible from their own ranks, from blacksmiths, hod-carriers, ploughmen, and draymen, as Kearney had stated, could never prove acceptable to the better class of men. In framing a constitution, there was no harm in having all grades of society represented, but it required statesmen to frame American state constitutions; the task was too great to be intrusted to an ignorant Irish rabble, even though that rabble sometimes paraded the streets as a great political party. It required experienced, philosophic, thoughtful minds, well trained in history, law, and economic sciences, and guided by common sense, patriotism, and honor—in short, able and honest jurists. The first constitutional

convention of 1849 was formed when the country was in a chaotic condition; nevertheless, the men composing it did honor to California.

It began to be generally admitted that in forming a constitution, the gravest act in the history of a state, on which depended the future welfare of a great people, partisan spirit should be set aside. A ticket under a non-partisan designation had, accordingly, a good prospect, and this the democrats and republicans were not slow in perceiving. The former were aware that their only chance of maintaining themselves in the field lay in an alliance against the common enemy, the Kearneyites, and pronounced democrats were in favor of such a movement, while old radicals had been sounded and found willing. A coalition had been mooted already before the adjournment of the legislature, but the promoters were accused of being in the interest of monopolists, and it was remarked that certain democratic railroad opponents were excluded from the conference on the subject, while the railroad organs were strenuously advocating it. This feature had probably something to do with the non-agreement of the state central committees of the two parties at their meeting on the 24th of April.

Another attempt at a fusion was made by the republican state central committee, which took the form of an appeal, signed by over 1,200 San Francisco names, calling on twenty-five well-known and leading citizens—thirteen republicans and twelve democrats—to meet on the 8th of May to prepare a non-partisan ticket for the first congressional district that should meet public approval. They responded, formed a non-partisan convention, and issued their address on the 24th, together with the names of the candidates, five of whom had been allotted to the workingmen. A previous attempt to win over this class, when this convention nominated as delegates the president, vice-president, and a member of the executive committee of the trades and labor union, resulted in a resolution of the

union that no member of its representative assembly should accept nomination to office. A communication from the colored voters to the non-partisans, asking for representation, was laid on the table. Kearney had tried early in 1878 to organize a colored workingmen's club, but failed. The desire to form a separate club for colored men was significant in itself, and one of them published a letter stating that his race was well aware that the majority of the Kearneyites disliked negroes as much as Chinamen, and could not, therefore, trust to Kearney. The desire for a non-partisan ticket gained strength throughout the country. The republican committee for the second district, on issuing a call, May 20th, for a district convention, invited the democratic organizations to send an equal number of delegates to it. They met in Sacramento in great harmony, and nominated men from the ranks of one another. On the 22d the democratic state convention met, and indorsed the non-partisan course of the first, second, and third congressional districts. The governor and state officials generally supported the same movement.

There was, however, a large number of republicans and democrats who failed to see in this coalition anything else than a plot on the part of the other party to capture their own adherents, and each body proceeded to make separate nominations. The democrats admitted doing this rather for the purpose of upholding their principles than with any hope of success; while the republicans, who still had some prospects, avowed that the main object must be to defeat the non-partisan element, which it declared to be a democratic combination delivered into the hands of monopolists. The non-partisan organs were equally bitter against both of these parties for their persistency in separate nominations, which could not by any possibility succeed, but merely aid in electing the Kearney ticket. The Kearney organs used the same arguments against the non-partisans. The issue of plat-

forms and final ratification of the democratic, republican, and non-partisan tickets, at San Francisco, took place on May 28th, and June 6th and 12th, respectively. The resolutions of the latter body dealt clearly and fairly with the questions of the day, and presented ample safeguards against corruption. The principles of the other two parties presented no special points, except a more pronounced resolution against monopolies and unequal taxation. Besides these and the two workingmen's tickets, the feeble national labor party, affiliated with the workingmen's party of the United States, was still in the field, with its principles of inflation and high protection, and with a ticket composed of selections from all of the other parties, only a few new names being inserted. Owing to the new stringent legislation, and the small value of the seats in the constitutional convention, no 'piece clubs' had risen to disgrace the campaign. As June advanced it was observed that many republicans and democrats were losing heart, and turning to the Kearney and particularly the non-partisan sides. As for the Kearneyites, whatever the prospects were in San Francisco, their cause was evidently weakening in Sacramento and San Joaquin, two of the three interior strongholds, and in many other counties their organization was not effective enough to afford great hopes. As the day for the election approached, the contest had narrowed down in most of the counties to the non-partisan and Kearney elements, of whose composition and relative value the county tickets for San Francisco may afford an illustration. Of the 30 non-partisan candidates, 19 were born in America, and ten abroad, seven being from Ireland; 26 were tax-payers, and three non-tax-payers, and 19 had been on the state register for over ten years. The Kearney ticket presented a glaring contrast to this array of old and solid citizens, nearly all of whom were closely connected with the interests of the country. Nineteen on that ticket were foreign born,

six of whom were Irish, and six German, and 15 out of the 30 were represented as non-tax-payers, while only four could be found on the register of 1868, twelve being registered in 1878. The majority of the candidates, therefore, called by this party to frame the organic laws of the state, were comparatively recent citizens, scarcely identified with the community, and more fit to clean legislative halls than sit in them. The influence around them was, besides, revolutionary and unwholesome. On being invited to give their views of the issues, the majority restricted themselves to promising that they would seek the expulsion of the Chinese; but a few were more expressive, and one named said he would indorse the platform were it a thousand times more radical; he was in favor of taxing hoarded wealth and pulling down the rich.

To encourage his followers and terrify their opponents, Kearney put forth a procession Saturday night, June 15th, wherein fully 6,000 joined, including several women, some of whom personified historic characters. The usual transparencies were carried, with mottoes and symbols directed against the Chinese and monopolists, and pointing out official corruption; but the most impressive feature was the lamps, which flickered at the end of sticks from nearly every shoulder. A noticeable transparency was a representation of Kearney's dray stick, borne on one of the oaken staves which the leader had used on his wagon. Each ward carried an announcement of the majority which it expected to gain at the election. The effect of the demonstration was not lost on the anti-Kearneyites, at least, for quite a number came to indorse their old leader, a course followed by the chairman and secretary after the election had shown how futile their opposition had been. But their submission was not accepted, a resolution being passed which decided against the readmission into the party of any member of the revolted county committee. The workingmen of both parties resolved to depart from the custom of

assessing candidates for campaign expenses, which were covered by voluntary subscriptions, the total cost to the Kearney party being less than $800.

Despite the fears of the citizens, the election proved to be one of the most orderly ever held in the country. Conscious of the need for united action, the Kearneyites adhered to the custom of the lower ranks of democrats, to vote the straight ticket, in which act they were encouraged by the wives and daughters of leading men in the party, who most zealously peddled the anti-Chinese ticket. Adherents of other parties exhibited the more independent action of weighing the merits of candidates for themselves, and scratching considerably.

The non-partisans were still animated by the vigilant spirit which had so lately been brought into play against their present opponents, and were extremely active, printing a million tickets, and mailing them to every person in the city and county, at a cost of more than the total campaign expenses of other parties. Their ticket pedlers were also out in force at an equally large cost, and it was asserted by opposition papers that money was freely used to buy votes; so much so, that rumor placed their expenditure at several hundred thousand dollars. In San Francisco the two opposition labor parties concentrated on the Kearney ticket early in the day, and some democratic and republican votes were doubtless influenced in its favor by the polls bulletins, which showed the growing preponderance of the Kearneyites. The first news from the interior was of the same tenor; so that even opposition papers were willing to concede their victory throughout. Of course the joy of the workingmen was unbounded for several days, and Kearney announced that after the ratification of the new constitution, the governor, the mayor of San Francisco, and all the judiciary of California would be deposed and replaced by new men. When the later corrected returns came in from the polls, the Kearneyites would

not for a while admit their accuracy, and the leader of course cried fraud. If the ballot-box has been tampered with, he said, the military companies of the workingmen will "organize a guerilla warfare that will wrench the social system from centre to circumference." The nine-months-old party had, however, every reason to be satisfied with the important success achieved in carrying their county ticket in San Francisco, by a majority of over 5,000 out of a total vote of some 21,000. This, together with the votes gained in the interior, gave them 51 out of the 152 delegates at the convention, and consequently a very respectable influence.

The non-partisans elected 81, the republicans 11, the democrats 7, and the independents 2, the first named having accordingly a majority of five delegates in the convention. Had the same thorough organization and zealous campaigning been carried on in the interior as in San Francisco, combined with greater moderation in language, the result would doubtless have been far more favorable. As it was, fully one third of the voters did not attend, chiefly owing to the harvest, the total vote cast in the state being less than 80,000. The lowest average vote on the workingmen's ticket at large was 35,193, while the non-partisans received 39,881.

The body which achieved the victory in San Francisco estimated its adherents at nearly 15,000, of all trades and nationalities, scattered throughout the twelve wards of the city, each with two to eight clubs. Clubs could not be organized without the approval of the other clubs in the ward, and of the central executive committee, according to a resolution adopted March 6, 1878. Representation had also been accorded to minors, with a view of training them for the duties of citizens; and in the twelfth ward a club was formed in April 1878 of young men between the ages of 16 and 21. Every interior town of note had one or more clubs, those of Oakland possessing a

membership of nearly 2,000, and one of the clubs at Los Angeles numbered 400 adherents. The workingmen's party had, besides, the support of several other semi-political labor associations. The socialistic workingmen's party of the United States, which claimed 100,000 followers, had been recognized by Kearney, and the German section in San Francisco, with 500 members, was attended by Kearneyite leaders. Its chief aims were to substitute coöperation for the wage system, to overthrow monopoly, and maintain freedom of speech. These views are identical with those of the international labor union of America, organized in February 1878, which in its declaration of principles condemned the wage system as despotic, as a bondage, tending to extremes of wealth and poverty, culture and ignorance. Hence the first reform must be a reduction of the hours of labor, which will increase wages, give leisure, enlarge wants, and promote culture. Among the chief opponents of Kearney in his own class was the national labor party of California, which originated in the San Francisco division, organized in midsummer 1877 by De Arcy. It was often confounded with the Kearneyites, and had repeatedly to disavow the connection, denouncing the incendiary agitation which brought business depression. It met in state convention January 18, 1878, and perfected the organization; but being too weak to stand alone, it joined the non-partisans at the June election. The clauses of its platform advocated the control of railroads and telegraphs by the government; the limitation of land grants to actual settlers; the establishment of a general system of irrigation; compulsory and purely secular education; eight-hour labor law; and stoppage of Chinese immigration. This body was distinct from the national union party, which was not a workingmen's association, but a purely political body, organized May 14, 1878. The Order of Caucasians, formed in April 1876, with headquarters at Sacramento, gained an unenviable notoriety in the

spring of 1877 for alleged complicity in the massacre of Chinamen at Chico. Its first constitution contained several strong anti-Chinese clauses, but the rules were moderated. One clause provided that members must report vacancies in all departments of labor, and name those who employ Chinamen. It was opposed to Kearney.

In the spring of 1878 Kearney received invitations to visit the east, but the impending election required his presence in California till July. In this month he made preparations to respond to the call, and arranged a concert, which realized $800 toward the expenses of the trip. He left San Francisco on July 21st, amid the farewell cheers of some 3,000 adherents, and was greeted with similar demonstrations at nearly every station on the route, particularly in California and Nevada, despite his declaration that he intended to have travelled incognito. The object of his journey was partly to visit his aged mother, who lived at Boston with several of her sons, but chiefly to stir up the workingmen in the eastern states to united action against monopoly. Many of the eastern press, which regarded Kearney as a communist rather than a labor agitator, expressed their contempt for the man, and apprehensions for the effect of his tirades on the laboring classes, which had so lately been in arms against their employers. They had good reasons for the feeling, since there can be no doubt that the nine months' agitation in California, attended by incendiary utterances and calls to arms, had kept the low elements of society at fever heat. State and municipal officers had been threatened with assassination, the city with annihilation by sword and fire, and property with confiscation; and this by men who were shielded by a party claiming some 15,000 members in San Francisco alone.

It is worthy of note that the great mass of these men were not Americans, accustomed to reason and

self-control, but blustering foreigners, led by an unnaturalized Englishman, a recently arrived Irishman, and similar low, ignorant aliens who broadly proclaimed their determination to drive from America another class of foreigners claiming an equal right to hospitality. The audacity of it was exceeded only by its insolence. San Francisco was already spoken of in the east as the 'turbulent city,' and the men who had helped to make it so could not be regarded as desirable visitors. Perhaps the predictions of Macaulay, in his famous letter on American institutions, in 1857, were before the minds of the alarmed journalists when they spoke of Kearney's coming. "The day will come," he says, "when in the state of New York a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose a legislature. Is it possible to doubt what sort of a legislature will be chosen? On the one side a statesman preaching patience, respect for vested rights, strict observance of public faith. On the other, the demagogue ranting about tyranny of capitalists and usurers, and asking why anybody should be permitted to drink champagne and ride in a carriage while thousands of honest folks are in want of necessaries. Which of the two candidates is likely to be preferred by a workingman who hears his children cry for more bread? . . . . There will be, I fear, spoliation. The spoliation will increase the distress. There is nothing to stop you. Your constitution is all sail and no anchor. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your republic will be as fearfully plundered and laid waste by barbarians in the twentieth century as the Roman empire was in the fifth; with this difference, that the Huns and Vandals who ravaged the Roman empire came from without, and that your Huns and Vandals will have been engendered within your country by your own institutions."

We may take this for what it is worth; but it requires no Macaulay, or Jonah, or St John to predict with certainty for this republic, long before the close of the twentieth century, disintegration and death, if the diseases of demagogy, intellectual prostitution, unjust monopoly, and political and social corruption be not checked.

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